

State Law Library of Montana
MONTANA LEGISLATIVE HISTORY

Chapter 102 Session L 1975
Bill House 102 Senate _____

History and final status sheet NA
Introduced bill X
Fiscal note NA
Third reading bill X
Final version of bill X

House Committee on Judiciary

Hearing date(s)* 1/24

Executive action (vote) date(s)* 1/29

Comm. Report NA

Floor 2nd reading & vote 2/1; 3/12

Floor 3rd reading & vote 2/4; 3/14

Senate Committee on Judiciary

Hearing date(s)* 2/28

Executive action (vote) date(s)* 3/4

Comm. Report _____

Floor 2nd reading & vote 3/8

Floor 3rd reading & vote 3/11

Conference or Free Conference Comm. _____ Yes X No

Hearing date(s)* _____

Executive action (vote) date(s)* _____

* Includes minutes, exhibits, roll call, visitors register, and vote sheet if available.

Did this bill originate in an interim committee? _____ Yes X No

Committee _____ Report _____

NOTES:



Compiled by: rg

Date: 6/12/20

1 *House* BILL NO. 102
 2 INTRODUCED BY *Hunsaker M. Bittich*
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT MAKING THE POSITION OF
 5 COUNTY ATTORNEY IN CERTAIN COUNTIES A FULL-TIME POSITION;
 6 SETTING THE QUALIFICATIONS THEREFOR; AMENDING SECTION
 7 24-605, R.C.M. 1947, BY PROVIDING A SALARY THEREFOR;
 8 PROHIBITING CERTAIN DEPUTIES FROM ENGAGING IN THE PRIVATE
 9 PRACTICE OF LAW; AND PROVIDING AN EFFECTIVE DATE.

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Certain county attorneys prohibited from
 13 private practice of law. In each county with a population
 14 in excess of sixty thousand (60,000), based on the latest
 15 United States Bureau of census population estimate, the
 16 county attorney is prohibited from engaging in the private
 17 practice of law, except as to those matters in which he has
 18 a direct interest.

19 Section 2. Qualifications. No person is eligible for
 20 the position of county attorney in those counties which have
 21 a population in excess of sixty thousand (60,000) unless he
 22 is a citizen of the United States, who has resided in the
 23 state two (2) years immediately before taking office, and
 24 has been admitted to the practice of law for at least five
 25 (5) years prior to the date of election or appointment.

1 Section 3. Section 25-605, R.C.M. 1947, is amended to
 2 read as follows:

3 "25-605. Salaries of certain county officers. The
 4 salaries of county treasurers, clerk and recorder, clerk of
 5 the court, county attorneys, sheriffs, county
 6 superintendents of schools, and of county surveyors in
 7 counties where county surveyors now receive salaries as
 8 provided in section 16-3302, shall be based on the
 9 population and taxable valuation of the county in accordance
 10 with the following schedule:

Population	Salary	Taxable Valuation	Salary
of County	Col. A	of County	Col. B
Below 3,000....	\$3,520	Below \$2,000,000.....	\$3,520
3,000 to 3,999..	\$3,620	\$2,000,000 to 2,999,999	\$3,620
4,000 to 4,999..	\$3,700	3,000,000 to 3,999,999	\$3,700
5,000 to 5,999..	\$3,780	4,000,000 to 4,999,999	\$3,780
6,000 to 6,999..	\$3,880	5,000,000 to 5,999,999	\$3,880
7,000 to 7,999..	\$4,130	6,000,000 to 6,999,999	\$4,130
8,000 to 8,999..	\$4,200	7,000,000 to 7,999,999	\$4,200
9,000 to 9,999..	\$4,300	8,000,000 to 9,999,999	\$4,300
10,000 to 12,499..	\$4,370	10,000,000 to 11,999,999	\$4,370
12,500 to 14,999..	\$4,460	12,000,000 to 13,999,999	\$4,460
15,000 to 17,499..	\$4,550	14,000,000 to 15,999,999	\$4,550
17,500 to 19,999..	\$4,630	16,000,000 to 17,999,999	\$4,630
20,000 to 24,999..	\$4,720	18,000,000 to 19,999,999	\$4,720

INTRODUCED BILL

HB 102

1	25,000 to 29,999..\$4,800	20,000,000 to 22,499,999 \$4,800
2	30,000 to 39,999..\$4,890	22,500,000 to 24,999,999 \$4,890
3	40,000 to 49,999..\$5,010	25,000,000 to 29,999,999 \$5,010
4	50,000 to 59,999..\$5,190	30,000,000 to 34,999,999 \$5,190
5	60,000 to 69,999..\$5,370	35,000,000 to 39,999,999 \$5,370
6	70,000 to 79,999..\$5,520	40,000,000 to 44,999,999 \$5,520
7	80,000 to 89,999..\$5,690	45,000,000 to 49,999,999 \$5,690
8	90,000 to 99,999..\$5,870	50,000,000 to 54,999,999 \$5,870
9	100,000 and over..\$6,050	55,000,000 to 59,999,999 \$6,050
10		60,000,000 to 64,999,999 \$6,050
11		65,000,000 to 69,999,999 \$6,050
12		70,000,000 to 74,999,999 \$6,050
13		75,000,000 to 79,999,999 \$6,050
14		80,000,000 to 84,999,999 \$6,050
15		85,000,000 to 89,999,999 \$6,050
16		90,000,000 to 94,999,999 \$6,050
17		95,000,000 to 99,999,999 \$6,050
18		100,000,000 and over.....\$6,050

19 The total salary paid to county treasurers, clerk and
 20 recorder, clerk of the court, county attorneys, sheriffs,
 21 county superintendents of schools and county sheriffs, and
 22 county surveyors in counties where county surveyors receive
 23 salaries, as provided in section 16-3302, shall be the sum
 24 of the salary shown in column A based on population when
 25 added to the salary shown in column B based on taxable

1 valuation; provided, however, that county superintendent of
 2 schools shall receive, in addition to the salary based upon
 3 the totals of columns A and B above, the sum of four hundred
 4 dollars (\$400) per year and county sheriffs and county
 5 attorneys shall receive, in addition to the salary based
 6 upon the totals of columns A and B above, the sum of one
 7 thousand two hundred dollars (\$1,200) per year.
 8 Notwithstanding the above, in each county with a population
 9 in excess of thirty thousand (30,000) but not more than
 10 sixty thousand (60,000), the county attorney shall receive a
 11 salary of sixteen thousand dollars (\$16,000) per year; and
 12 in each county with a population in excess of sixty thousand
 13 (60,000) the salary of the county attorney shall be in the
 14 same amount as that received by a district court judge."

15 Section 4. Certain deputies prohibited from private
 16 practice. Any deputy county attorney in a county with a
 17 population in excess of sixty thousand (60,000) who is paid
 18 seventy per cent (70%) or more of the county attorney's
 19 salary is prohibited from engaging in the private practice
 20 of law, except as to those matters in which he has a direct
 21 interest.

22 Section 5. Effective Date. The effective date of this
 23 act is July 1, 1975, provided that any county attorney now
 24 serving in a county with a population in excess of sixty
 25 thousand (60,000) may elect to complete his present term of

LC 061d

1 office at the salary received by county attorneys in
2 counties with populations in excess of thirty thousand
3 (30,000) but not more than sixty thousand (60,000) and
4 retain the right to engage in the private practice of law.

-end-

HB 102

11/14/75

House Bill No. 101, introduced by Bardanouve: A bill for an act entitled: "An act to appropriate all revenue sharing funds received by the State during fiscal year 1977 to the State Permissive School Levy Account." Referred to Committee on Appropriations.

House Bill No. 102, introduced by Huennekens, McKittrick: A bill for an act entitled: "An act making the position of County Attorney in certain counties a full-time position; setting the qualifications therefor; amending Section 24-605, R.C.M. 1947, by providing a salary therefor; prohibiting certain deputies from engaging in the private practice of law; and providing an effective date." Referred to Committee on Judiciary.

House Bill No. 103, introduced by Jacobsen, Lien, Lund, Aageson, Mular, Sheldon, Herlevi, Bardanouve, Halvorson, Williams, Bengtson, Gerke, Manuel, W. Baeth, Gunderson, Bradley, Lockrem, Casey, Kummerfeldt, McFadden, Smith, Harper, Dassinger, James Moore, Driscoll, Dussault, Lynch, Scully, Seifert, Kimble, Kvaalen, Murphy, Stoltz: A bill for an act entitled: "An act providing that livestock encroaching on certain public highways may, after two warnings, subject the owner to a civil penalty, and providing for the exemption of Counties or parts of Counties from this act; and providing an effective date." Referred to Committee on Highways and Transportation.

House Bill No. 104, introduced by Johnston, Barrett, Brand, Mular: A bill for an act entitled: "An act to amend Section 26-202.1, R.C.M. 1947, to provide for preference in the issuance of special elk permits to applicants who did not receive a special elk permit for the previous season." Referred to Committee on Fish and Game.

House Bill No. 105, introduced by Johnston, Mular, Jack Moore, Brand, Travis, Menahan: A bill for an act entitled: "An act to amend Section 53-106.8, R.C.M. 1947, to replace the word 'Automobile' with 'Motor Vehicle'." Referred to Committee on Highway and Transportation.

House Bill No. 106, introduced by Fabrega, Jack Moore, Gilligan, Tropila, Fagg, (requested by Department of Revenue): A bill for an act entitled: "An act amending Section 84-4919, R.C.M. 1947, to allow taxpayers an automatic two month extension of time for filing income tax returns; to clarify existing provisions; and providing an effective date." Referred to Committee on Taxation.

House Bill No. 107, introduced by Fabrega, Jack Moore, Fagg, (requested by Department of Revenue): A bill for an act entitled: "An act amending Sections 84-401, and 84-501, R.C.M. 1947, to provide that all taxable property must be assessed at forty percent of its full cash value and stating exceptions." Referred to Committee on Taxation.

House Bill No. 108, introduced by Kendall, Gwynn: A bill for an act entitled: "An act amending Section 82-1222, R.C.M. 1947, to authorize officers other than the State Fire Marshall to cause alteration, repair and demolition of dilapidated buildings; making the cost of such alteration, repair, or demolition a lien against the real estate in preference to prior incumbrances; and requiring payment of the proceeds of sale on foreclosure of the lien to be paid to the governmental body which ordered such alteration, repair or demolition." Referred to Committee on State Administration.

House Bill No. 109, introduced by McKittrick, Driscoll, Brand, Johnson, Tropila, Lynch, Mular, Harper, Helmbrecht, Quilici, Gunderson, Magone, Murphy, Hager, Sheldon, Manuel, Yardley, Scully, Gilligan, Lester, O'Connell, Sloan, James Moore, Fishbaugh, Conroy, Johnston, Kummerfeldt, Kanduch, Halvorson, Bradley, Kemmis, Richards,

JUDICIARY COMMITTEE

44th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 102	An act making the position of county attorney in certain counties a full-time position; setting the qualifications thereof, amending to provide salary thereof, etc.	1/16/75	Huennekens	1/24/75	DO PASS AS AMENDED	1/29/75
HB 110	An act requiring the attorney general to give written opinions within 4 months to the governing body of any city or town upon any question, etc.	1/16/75	Brand	1/20/75	1/20-action deferred to req. fiscal note. 1/29-AS AMENDED DO PASS	1/29/75
HB 111	Relating to compensation of victims of motor vehicle accidents; requiring security by motor vehicle owners; providing for certain mandatory insurance, etc.	1/16/75	Brand	1/23/75	1/23/75 Hold for other N-F bills DO PASS AS AMENDED	2/21/75
HB 118	Establishing the presumption of joint tenancy of a motor vehicle when more than one name is listed on the title.	1/17/75	Lester	1/21/75	DO PASS	1/29/75
HB 122	Including contributing to the delinquency of a youth as endangering welfare of children.	1/17/75	Request-Yardley	1/23/75	1/22/75 Pass for today. DO PASS AS AMENDED	1/29/75
HB 126	Permitting small business corporations to contribute to political campaigns; etc.	1/17/75	Fagg	1/23/75	1/29-action delayed	

JUDICIARY COMMITTEE

January 24, 1975

The tenth meeting of the House Judiciary Committee was called to order in Committee Room 436 of the Capitol Building at Helena, Montana on Friday, January 24, 1975 at 9:00 AM. Representative Herb Huennekens, Chairman, presided. All members were present except Representative John Vincent.

Bills scheduled for hearing this date were House Bills Nos. 102, 148 and 134, taken in this order.

HOUSE BILL NO. 102 Representative Herb Huennekens, District #68, chief sponsor, stated he introduced this bill at the request of Tom Honzel who represents the County Attorney's Association. This bill is an act to make the county attorney position full time in first class counties.

Tom Honzel, representing the County Attorney's Association, stated that all county attorneys at the present time are allowed to practice law privately and are paid \$16,000 per year in a county with a population over sixty thousand. During the past several years the county attorneys have realized a need for full time because of the work load. Cascade, Yellowstone and Missoula County Attorneys requested this bill making them full time. He proceeded to explain each section of the bill to the committee.

Proponents to bill were Dusty Deschamps II, Missoula County Attorney, who stated that Missoula, Cascade and Yellowstone Counties combined have one third of the state's total population. (see prepared statement). Proponent Lud Browman, Missoula County Commissioner, supports this bill but feels that qualifications for this office should be the same as for a district court judge. (see prepared statement). Proponent Harold Hanser, Yellowstone County Attorney, testified on the many responsibilities of the county attorney including the fact they are responsible for criminal prosecution from one hundred fifty seven officers plus enforcing criminal penalties that are attached to Workmen's Compensation, regulations from the department of health, environmental laws, zoning problems, sanitary restrictions, rural fire departments, animal control and are involved more and more in business consumer relations. He pointed out that the counties also run businesses such as fairs and nursing homes.

Proponent Ed Shubat, Cascade County Attorney, stated their problems are similar to testimony of other county attorneys and urged passage of this bill.

Opponent Joe DeLong, Flathead County Commissioner, stated they would like the bill changed to allow full time county attorneys in first class counties and make it permissible for second class counties to have full time county attorneys. Flathead County has many problems with subdivisions,

also have a large number of visitors staying in the area which creates many problems. Pat Springer, Flathead County Attorney, agreed with Commissioner Long and was present on behalf of his people to ask for a full time county attorney. No other opponents.

In questioning Mr. HOnzel, Representative Meloy learned that they would have no objection to amending bill to limit county attorney to practicing law only for immediate family. Representative Huennekens questioned the relationship between the county attorney's salary and a judges salary to which Mr. Honzel replied the commission has recommended the chief prosecutor be paid the same as a chief trial judge.

Representative Moore questioned whether the county attorneys' association would object to making it permissive for first class counties instead of mandatory to which Mr. Hanser replied that this was the frank intent that the bill be submitted that way. Following additional questioning and discussion the hearing was closed.

HOUSE BILL NO. 148 Representative Verner L. Bertelsen, District #27, is chief sponsor of this measure to make it possible for people to recall state officials. He proposed some amendments to bill (see prepared statement). He feels the bill has a great deal of merit, makes the government more responsible to the people. They have received some reaction from the county commissioners that this would cost the county some money. Any time we ask for action from the electorate it will cost some money. This measure has been used but rarely in other states.

No other proponents. Opponent Joan Woodgerd from the Secretary of State's office stated the reason they suggested amendments was to reduce the possibility of litigation.

No other opponents. Representative Halvorson questioned the number of other states that have recall provisions and was advised about thirty states have this. Representative Huennekens questioned whether this included appointive boards and was advised that it didn't. Representative Anderson questioned whether the initiative process could be used and was told it could not be. Representative Yardley questioned whether in a noncontested election a 25% figure would be adequate in some situations to which Representative Bertelsen stated he could see a problem here.

Representative Kimble questioned if it would be pretty much for any reason this recall could be initiated and was told yes, but reason would have to be stated, then when ballot came out the official would have a chance to answer in two hundred words or less.

Hearing was then closed.

MISSOULA COUNTY

January 21, 1975

Representative Herb Huennekens
Chairman, House Judiciary Committee
Room 436
State Capitol
Helena, MT 59601

Dear Chairman Huennekens:

RE: House Bill 102

We have been informed that HB 102, which would make the office of County Attorney full time in counties over 60,000 in population, is before your Committee for consideration.

We believe that the County Attorney should be compensated at the same rate as his counterparts in private practice, and we appreciate the fact that the demands and obligations of the office dictate that it be a full-time position. However, we also believe that if the salary of the County Attorney is the same as a District Court Judge, the qualifications for the office should also be the same.

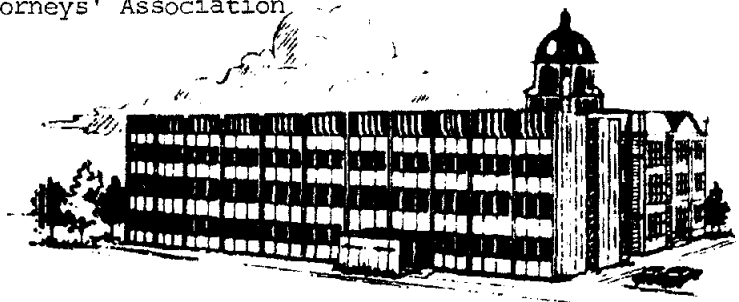
As the Commissioners of one of the counties to be affected by this bill, we were consulted in the drafting of this legislation. It was our suggestion that the minimum qualifications section be added to the bill. With that provision in the bill, we support it and urge its passage.

Sincerely,


Ludvig G. Browman, Chairman
County Commissioners

LGB:cbb

cc: Missoula County Attorney
Montana County Attorneys' Association



THIRTEENTH JUDICIAL DISTRICT

COUNTIES:

BIG HORN
CARBON
STILLWATER
TREASURE
YELLOWSTONE

Charles B. Sande
District Judge
Billings, Montana

January 21, 1975

House Judiciary Committee
Capitol Building
Helena, Montana 59601

ATTENTION: Herb Huennekens, Chairman

Gentlemen:

It has come to our attention that there is a bill pending in the legislature whereby the county attorney's office will be changed to a full-time county attorney.

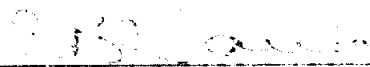
In the opinion of most judges who work intimately with the county attorney's office this is a long overdue change.

In just the last few years the increase in the duties and work of the county attorney in the larger cities has increased tremendously. This is due not only to the increase in population but each legislative session seems to pass new bills whereby the enforcement of the particular legislation is made the duty of the county attorney. I am afraid that the legislators do not quite realize the proliferation of new boards and bureaus and these agencies are taking more and more of the time of the county attorney's office. When one thinks that the legal advisor of the county is representing an entity with a budget of \$4,000,000.00, or so, this best illustrates the "horse and buggy" situation that exists in the counties of the first class.

Inasmuch as the counties pay one-half of the county attorney's salary and the state the other one-half, the efficiency of the office would far outweigh any increase in expenditures.

We recommend that the legislature give their earnest consideration to this pending legislation.

Yours very truly,







CBS/sn

MONTANA COUNTY ATTORNEY CRIMINAL STATISTICS

July 1, 1972 -- June 30, 1973

Source: 1973 County Attorney Reports to Attorney General

<u>RANK</u>	<u>NAME</u>	<u>DRUG CASES</u>	<u>OTHER FELONIES</u>	<u>TOTAL</u>
1	Cascade	97	408	505
2	Yellowstone	101	259	360
3	Missoula	76	222	298
4	Flathead	35	110	145
5	Lewis and Clark	38	87	125
6*	Silver Bow	3	77	80
6*	Lincoln	13	67	80
7	Gallatin	31	45	76
8	Ravalli	14	42	56
9	Valley	5	46	51

(All other counties less than 50 cases, total.)

*Tied for 6th.

State Totals:	565	1,796	2,361
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Totals for Cascade, Missoula, Yellowstone	274	889	1,163
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Cascade, Missoula, Yellowstone percentage of state totals =	48.4%	49.5%	49.2%
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FELONY COMPLAINTS FILED
IN MISSOULA COUNTY SINCE 1961

1961 - 75	1968 - 204
1962 - total not available	1969 - 214
1963 - 128	1970 - 272
1964 - 228	1971 - 323
1965 - 246	1972 - 315
1966 - 241	1973 - 354
1967 - 289	1974 - 273

COMMENT: The volume of felonies in Missoula has tripled since 1961, and, accordingly, so has the prosecutor's burden. The increase in misdemeanors has not been as great although the average has risen from about 250 to over 400 per year.

The misdemeanor rate increased dramatically in 1974, however. At the same time, the felony rate decreased. It is believed that this was a result of the new criminal codes' higher jurisdictional amount on grand theft and bad checks (\$50 to \$150) and the stricter standards for felony assaults (from grievous bodily injury to injury causing permanent bodily malfunction or serious risk of death). Thus, misdemeanor rates are as follow:

MISDEMEANORS SINCE 1972

1972 - 398
1973 - 385
1974 - 517

TOTAL CRIMINAL CASES SINCE 1972

1972 - 713
1973 - 739
1974 - 790

NONSUPPORT DIVISION

I Statistics - 1974

A. Criminal Nonsupport Cases.

1. Justice of the Peace Court

a. Cases pending January 1, 1974	5
b. Cases filed in 1974	23
TOTAL	26

2. Dispositions

a. Bound over to District Court	1
b. Dismissed	12
c. Committed to Jail	3
d. Sentence Suspended.	1
e. Sentence Deferred	1
f. Fined *	3
g. Pending December 31, 1974	7
TOTAL.	28

* Two of these were fined and given some sort of sentence also.

B. Uniform Reciprocal Enforcement of Support Act Cases (District Court).

1. Initiating

a. Initiating Petitions filed in 1974.	57
1. Support Orders Received	23
2. Petitions Dismissed in 1974	20
b. Total Initiating Petitions open December 31, 1974 . . .	139

2. Responding

a. Responding Petitions filed in 1974.	78
1. Support Orders Initiated.	59
2. Petitions Dismissed in 1974	22
b. Total Responding Petitions open December 31, 1974 . . .	187

3. Extradition Proceedings

a. Pending January 1, 1974	0
b. Filed in 1974.	0

4. Paternity Cases

a. Pending January 1, 1974	0
b. Filed in 1974.	1
c. Pending December 31, 1974.	1

Missoula County
CRIMINAL COMPLAINTS 1974

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TC L COMPLAINTS FILED 790 FELONIES 273 MISDEMEANORS 517

TOTAL WARM SPGS. COMMITMENTS 11

CIVIL CASES 74 (approximately 50 of this number were pers. prop. tax cases-10 filed Dist. Ct., 40 filed Just. Court)

Agg. Assault	22	Liquor Viol.	1
Alter Cert. Title	1	Non-support	26
Alter Sewer/Sept. w/o permit	1	Obt. Mon/Prop. Flse	2
Assault (Misdemeanor)	66	Obt. Gds. Flse Cr. Dev.	1
Assault 3rd	4	Obstruct Officer	4
Arson	1	Perjury	2
Bail Jumping	5	Plumbing Viol.	1
Beer Act violation	1	Priv. Communications	6
Burglary	21	Public Intox.	3
Burglary 1st Degree	1	Pub. Nuisance	2
Create a hazard	1	Rape	1
Cr'minal Contempt	3	Receive Stolen Prop.	1
Criminal Mischief	18	Resist Arrest	5
Cruelty to Animals	1	Refuse report injury	2
Custodial Interference	5	Robbery	3
Contributing	7	Sexual Interc. w/o consent	5
Deceptive Practices	9	Solicitation	2
Defraud Creditors	3	Theft 71 Fel.	118
Disorderly Conduct	12	47 Misd.	
Drugs 51 Fel	87	Trespass	9
36 Misd.		Unauthor. Use Vehicle	8
Dump Garbage	1	Unlawful Trans. w/child.	3
Embezzlement	1	Unsworn flse. st. to author.	1
Escape	2	Weapons violations	7
Fail to pay wages	14	Work as Elect. w/o license	1
Flse st. reg. fin. condition	1	Junk Veh. viol.	1
Flse. st. to obt. pub. asst.	1		
Fail oper. mtrboat careful.	1		
Forest Serv. Viol.	5		
I ud. Obt. Drugs	1		
Fish & Game	3		
Forgery	14		
Fug. from Justice	10		
Gambling	1		
Health Dept. Viol.	1		
Highway	80		
Highway (DWI)	44		
Issue Bad Checks	85		
(Utt. & Del.)	29		
Intimidation	4		
Indecent Exposure	2		
Kidnapping	1		
Larceny Gr, Larc.	2		
Larceny, Gr. Larc Bailee	2		
Larceny. Petit	1		
		Total	790

1974 Muscogee County Criminal Statistics

[illegible]

	Misd.	Fel.	Total	Chg. Reduced	MSP	Co. JAIL	MENT. INST.	REC- tation	Defers.	Acquit.	Since	INDEMNITY
Non-support	26		26			1		2	2			15
Privacy in Communi.	4		4			1		1	1			2
Public Intoxication	3		3			2		1				1
Robbery		6	6	1					2			
Sex.Interc.w/o cons.		4	4					1				3
Theft	47	71	118	8	3	10		13	12	1	5	25
Trespass	5		5			1					3	2
Unauthor.Use Veh.	7		7			3		1	1		1	1
Weapons Viol.	5	3	8			2		1	2		1	
Gr. Larc.Bailee		1	1									
Junk Veh. violations	1		1									
Public Nuisance	2		2								1	
Crim.Contempt	3		3								1	
Arson		1	1	1					2			3
Obt.Goods/Mon.Flse. Pret.		3	3					1				5
Unlaw.Transact.w/ Child	3		3							1	1	
Obst.Justice	1	1	2									2
Solicitation	1		1								1	
Cruelty to Animals	1		1									
Gr.Larc.		9	9	2					4	1	1	1

[illegible]

Missoula County
CRIMINAL COMPLAINTS FILED - 1973

TOTAL COMPLAINTS - 739 FELONIES - 354 MISDEMEANORS - 385

TOTAL WARM SPRINGS COMMITMENTS - 20 Voluntary - 8
Standard - 11
Emergency - 1

CIVIL CASES - 31

Abuse By Telephone	4	Fugitive from Justice	17
Allow Child to be Truant	6	Gambling	3
Allow Equine to Run-Large	1	Garbage	1
Allow Goats to Run-Large	1	Grand Larceny	32
Assault 1st Degree	6	Grand Larceny Bailee	14
Assault 2nd Degree	40	Health Dept. Violation	3
Assault 3rd Degree	47	Highway (General)	44
Att.Obt.Drugs Fraudulently	1	Highway (DWI)	27
Break water pipes	1	Intox. Public Place	1
Bribery	1	Indecent Exposure	5
Burglary in 1st Degree	23	Kidnapping	1
Burglary in 2nd Degree	7	Lewd/Lasc.Act	2
Burn Without Permit	4	Littering	1
Contributing	10	Maint. Public Nuisance	2
Carry Concealed Weapon	5	Malicious Destruct Property	10
Conspiracy	1	Malicious Injury Freehold	4
Contempt	11	Malicious Killing Livestock	1
Cruelty to Animals	5	Murder 2nd	1
Disturb the Peace	21	Narcotics-Possession	54
Defraud Bank.	8	Narcotics-Sale	25
Disseminate Witness	1	Obscenity	3
Doing Business w/o Lic.	2	Obstruct Officer	2
Embezzlement	1	Obtain Mon/Prop.False.	20
Entice Away Child	2	Obtain Goods False.Pr.Device	2
Failure to pay Wages	21	Operate tourist camp w/o license	1
Failure to Appear	1	Petit Larceny	11
False Statement to Obt. Public Asst.	5	Perjury	1
		Rape	5
Failure to Support	10	Remov.Fort.Property	1
Sh & Game	5	Receive Stolen Property	3
Forest Serv. Violation	3	Resist Arrest	2
Forgery	21	Robbery	2

Sell Beer - Minors	1
Sell Liq.w/o license	1
Tak/Use Auto w/o Consent	15
Utt.&Del. Fraud. Ck.	121 ✓
Utt.&Del. Fraud. Ck.	19
Written Threat	1

Nassau County
CRIMINAL COMPLAINTS 1974

TOTAL COMPLAINTS FILED 790 FELONIES 273 MISDEMEANORS 517

TOTAL WARM SPGS. COMMITMENTS 11

CIVIL CASES 74 (approximately 50 of this number were pers. prop. tax cases-10 filed Dist. Ct., 40 filed Just. Court)

Agg. Assault	22	Liquor Viol.	1
Alter Cert. Title	1	Non-support	26
Alter Sewer/Sept. w/o permit	1	Obt. Mon/Prop. Flse	2
Assault (Misdemeanor)	66	Obt. Gds. Flse Cr. Dev.	1
Assault 3rd	4	Obstruct Officer	4
Arson	1	Perjury	2
Bail Jumping	5	Plumbing Viol.	1
Beer Act violation	1	Priv. Communications	6
Burglary	21	Public Intox.	3
Burglary 1st Degree	1	Pub. Nuisance	2
Create a hazard	1	Rape	1
Criminal Contempt	3	Receive Stolen Prop.	1
Cr' inal Mischief	18	Resist Arrest	5
Cruelty to Animals	1	Refuse report injury	2
Custodial Interference	5	Robbery	3
Contributing	7	Sexual Interc. w/o consent	5
Deceptive Practices	9	Solicitation	2
Defraud Creditors	3	Theft 71 Fel.	118
Disorderly Conduct	12	47 Misd.	
Drugs 51 Fel	87	Trespass	9
36 Misd.		Unauthor. Use Vehicle	8
Dump Garbage	1	Unlawful Trans. w/child.	3
Embezzlement	1	Unsworn flse. st. to author.	1
Escape	2	Weapons violations	7
Fail to pay wages	14	Work as Elect. w/o license	1
Flse st. reg. fin. condition	1	Junk Veh. viol.	1
Flse. st. to obt. pub. asst.	1		
Fail oper. mtrboat careful.	1	Total	790
Forest Serv. Viol.	5		
Fraud. Obt. Drugs	1		
Fi. & Game	3		
Forgery	14		
Fug. from Justice	10		
Gambling	1		
Health Dept. Viol.	1		
Highway	80		
Highway (DWI)	44		
Issue Bad Checks	85		
(Utt. & Del.)	29		
Intimidation	4		
In cent Exposure	2		
Kidnapping	1		
Larceny Gr, Larc.	2		
Larceny, Gr. Larc Bailee	2		
Larceny, Petit	1		

Missoula County
COMPLAINTS FILED IN 1972

REPRODUCED FROM
 DISTRICT ATTORNEY'S OFFICE

Abuse of Teacher	1	Health dept. violation	6
Abuse by Telephone	7	Highway (general)	98
Abandonment	1	Highway (DWI)	24
Arson 3rd	4	Intox. pub. place	2
Allow child to be truant	3	Incest	1
Assault 1st	4	Illegal sale fireworks	1
Assault 2nd	19	Indecent exposure	1
Assault 3rd	45	Kidnap	1
Att. Murder	1	Larceny of water	1
Burglary 1st	25	Lewd/Lasc. Act	3
Burglary 2nd	2	Littering	6
Contributing	14	Mal. Dest. Prop.	12
Carry Concealed Weapon	7	Mal. Injur. free.	1
Conspiracy	1	Murder	1
Contempt	1	Narcotics-possession	47
Crime Against Nature	1	Narcotics-sale	33
Cruelty to Animals	1	Obt. Mon/Prop. flse.	19
Disturb the peace	19	Obt. Goods Flse. Cr. Device.	2
Defrauding Innk.	3	Obt. Serv. Fls.	5
Desertion	1	Petit Larceny	17
Entice away child	1	Poss. Burgl. Instruments	1
Fail file death cert.	1	Pract. cosmet. w/o lic.	1
Fail pay wages	7	Rape	5
Fail to appear	2	Remov. mort. prop.	1
Flse. stat. rep. prop.	1	Receive stolen prop.	9
Flse. state public asst.	1	Resist arrest	6
Fail support	21	Robbery	8
Fail trans. cert. title	3	Sell cig. w/o tax insig.	3
Fish & Game	3	Trespass	4
Forcible entry	1	Tak/Use Auto w/o cons.	16
Forgery	17	Utter & Deliver Fraud. Ck.	56
Fugitive from justice	20	Unemp. Comp. Fraud	35
Fraud. obt. drugs	1	Unlawful import beer	1
Gambling	3	<u>Wm. Spgs Commitment</u>	
Give beer to minors	2	Voluntary alcoholic	12
Grand Larceny	57	Voluntary sanity	5
		Emergency	6
		Standard	10

CIVIL DIVISION

Cause of Action	Filed	Closed	Open
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JUSTICE COURT

Collection-Personal Property Tax	approx. 40	.	
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DISTRICT COURT

Annexation	1	1	
Bridge Damages	1		1
Collection - taxes	11		11
Collection - damages	1	1	
Corrupt Pract.	1	1	
Custody	1		1
Collection - weed control assessment	3	2	1
Defense	3	2	1
Election	1	1	
Highway	1	1	
Injunction	4	3	1
Labor	2	1	1
Medical	1	1	
Road access	1		1
Wages	1		1
Show Cause	1		1
Writ Hab.Corp.	1		1

U.S. DISTRICT COURT

Defense	1		1
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COUNTY ATTORNEY OPINIONS

84 opinions rendered (see copy of Index attached)

SANITY COMMITMENTS

11 proceedings

INDEX-COUNTY ATTORNEY OPINIONS 1974

<u>SUBJECT</u>	<u>DIRECTED TO</u>	<u>DATE</u>	<u>FILE NO.</u>
<u>County Employees</u>			
Vacation and sick leave status of county employees	Dorothy Head	January 7, 1974	74 - 2
Legality of Union Shop clause in contract between Msla. county and exclusive bargaining rep. of a group of county employees	C. Painter	May 20, 1974	74 - 43
Part-time, temporary, seasonal employees right to paid holidays	Dorothy Head	July 5, 1974	74 - 55
<u>City Building</u>			
Application of city building code to urban areas	Commissioners	January 14, 1974	74 - 3
<u>Elections</u>			
"Write'in" site in school site election	Ken Sutton	March 14, 1974	74 - 19
Nomination, election & appointment of study commissioners to local govt. study commission	Commissioners	June 17, 1974	74 - 50
Can bond election for Co. airport be placed on ballot without petition to co. commissioners	Election Dept.	July 24, 1974	74 - 61
Must a person be a registered voter to run for public office in Montana	Dorothy Head	September 23, 1974	74 - 70
Elections; certifying ballot; right to withdraw; filling vacancy; removal of name from ballot	Dorothy Head	October 18, 1974	74 - 75

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Rural fire dept. employee rights of tenure, seniority & suspension procedures	Stanfield	May 9, 1974	74 - - 36
Rural fire dept. employees may not work more than 8 hr. shift	Stanfield	May 9, 1974	74 - - 37
Rural fire district, taxation powers, in general over motor vehicles	Stanfield	May 9, 1974	74 - - 38
Rural fire dept. employees insurance programs; conversion to county plan	Stanfield	May 9, 1974	74 - - 39
Rural fire dept. requirement - participate PERS	Stanfield	May 10, 1974	74 - - 40
Rural fire dept. should participate on personnel plan	Stanfield	May 10, 1974	74 - - 41

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Sale of game animals	Fish & Game	January 16, 1974	74 - - 5
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School Industrial Accident Insurance Budget funds may be appropriated from Comprehensive Insurance Fund Budget	Gerald Hunter	May 1, 1974	74 - - 31

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Assignment of contracts and registering of warrant	MCBS - Mr. Delaney	January 25, 1974	74 - 8
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Grants of right of way by Warranty Deed	Elmer Frame	March 12, 1974	74 - 18
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Nature of Regional Mental Health Centers, Option to PERS, ability to incorp.	Gordon Clark Anderson	April 1, 1974	74 - 22
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Railroad crossings - requirement for freeview signals	R. Rusk - Elmer Frame	May 30, 1974	74 - 44
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Immunization of school children	Gerald Hunter	February 1, 1974	74 - 10
Requirement for teacher's cert. for filing for superintendent of schools	Ken Wolff	February 22, 1974	74 - 15
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Schools, Teachers, School children

School Trustees Per Diem	Gerald Hunter	October 1, 1974	74 - 73
Power to award Assoc. Degrees Post Secondary Vocational-Technical Schools	T. E. Downey	October 4, 1974	74 - 74
Teachers contracts; Agency Shop Provisions	Gerald Hunter	October 30, 1974	74 - 75
May school personnel avoid liability for damages resulting from administer- ing required medical treatment to children, by first obtaining written authorization from the parents and attending physician(s)	Kenneth W. Olsen (Supt., Missoula Public Schools)	December 19, 1974	74 - 82

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Due Date for Water and Sewer District taxes; authority to borrow money from RSID revolving fund for water and sewer district	E. C. Painter	December 24, 1974	74 - 83

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Welfare

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County responsibility for transient
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Planning Board

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Qualifications of freeholders,
definition of a zoning district, and
which planning board is responsible
for enactment of a comprehensive plan

John Crowley
Planning Board

May 6, 1974

74 - 34

Oral protest at planning and zoning
district hearings

Elmer Frame

July 18, 1974

74 - 60

BEST COPY
AVAILABLE

NAME Ludwig P. Brown Bill No. H.B. 102
ADDRESS Court House - Merivale Date 1/24/75
WHOM DO YOU REPRESENT? Merivale County Commissioners
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Support qualification
2. Support exclusive function for County
3. " payment amended.

NAME

Patrick M. Swenson

NO COPY
AVAILABLE

Bill No.

102

ADDRESS

1103 South Main, Haysville

Date

1/20/75

WHOM DO YOU REPRESENT?

Flathemo County

SUPPORT

☒

OPPOSE

☐

AMEND

☒

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

*Basically Support The Bill, with The Hope
That Sec 1 Be Amended To Allow
Permissive Participation By First Class
Counties (Flathemo) & Also To Set Salary
Provision Apart From Dist Court Judges*

JUDICIARY COMMITTEE

January 29, 1975

EXECUTIVE SESSION

The fifteenth meeting of the House Judiciary Committee was called to order in Committee Room 436 of the Capitol Building at Helena, Montana on Wednesday, January 29, 1974 at 3:15 PM on adjournment of the House. Representative Herb Huennekens, Chairman, presided. All members were present except Representative Meloy, absent, excused.

HOUSE BILL NO. 8 Representative Gary Kimble was chairman of subcommittee to study this bill. He stated that he and Representative Lester had been able to get together but that Representative Hager had not been able to meet with them and thought that Mr. Hager had some changes to make. Also, Representative Meloy had an additional amendment he would like in bill.

Representative Kimble stated that they wished to amend this bill on page 1, line 20 after "directives" by inserting "of affirmative action". He explained that the federal process for eliminating discrimination or non-participation relate to affirmative action which means to review employment levels as to sex, race and so forth, then decide usual levels and then begin plugging holes.

Representative Kimble stated they wished to amend on page 1, line 13 after the word "ancestry" by adding "political ideas and physical and mental handicaps". Also add this same amendment to page 3, line 24 after the word "ancestor", also on page 3, lines 1 and 2 and page 2, lines 11 and 12. Also on page 4, line 14, page 5, line 1 and the title. Representative Kimble stated he would like a discussion as to whether physical handicaps would include nervous system diseases. Representative Scully stated he would like to see the terminology "mental or physical handicaps" used. Representative Kimble stated this was fine with him. Representative Kimble stated you can't negate other qualifications of job under affirmative action in order to meet just one qualification. Representative Scully stated he had trouble with subsection (a), section (1) and also subsection (c), that when you are talking about drawing that line you never can find the spot.

Chairman Huennekens stated he would defer action on this bill until Representative Meloy could be present.

HOUSE BILL NO. 134 Representative Kimble stated he was concerned there might be "presumption created" and he doesn't like presumptions in criminal matters. Representative Moore stated he had a basic concern for this but thinks that if a person won't take the test he should know there is something on the other side.

Motion to amend carried unanimously on each amendment which were broken down into (a), (b) and (c) and all carried unanimously. The third amendment was taken out of another state's statute.

A motion by Representative Yardley of DO PASS AS AMENDED carried unanimously.

HOUSE BILL NO. 102 The question on this bill was whether to include all five counties as mandatory. Representative Moore stated the county attorney in Butte wants this mandatory. Representative Seifert stated he felt the section under practice of law and "direct interest" was very weak.

Representative Moore moved to amend this bill by striking "with a population in excess of sixty thousand dollars (\$60,000) and insert after the word "each" the words "first class" on page 1, line 13; page 1, line 20; page 4, line 12, page 4, line 17; page 4, line 24 and page 5, line 3. Then amend on page 1, line 13 following "county" insert "as defined in section 16-2419". Amend on page 1, line 17 after "except" by striking "as to those matters in which he has a direct interest" and insert "that he may represent himself and his immediate family".

Representative Moore moved the adoption of these amendments. Motion carried.

A motion by Representative Moore of DO PASS AS AMENDED carried unanimously.

A motion to adjourn carried. Meeting adjourned at 4:55 PM

HH:pb

REPRESENTATIVE HERB HUENNEKENS,
CHAIRMAN

resolution correctly printed: House Bill No. 83, House Bill No. 86, House Bill No. 167, House Joint Resolution No. 21.

QUILICI, Chairman

January 30, 1975

Mr. Speaker: We, your Committee on Education, having had under consideration Senate Joint Resolution No. 5, respectfully report as follows: That Senate Joint Resolution No. 5 be amended in the third reading copy as follows:

1. Amend the title, page 1, line 8.

Following: "eliminate"

Insert: "unnecessary"

2. Amend page 1, line 22.

Following: "eliminate"

Insert: "unnecessary"

3. Amend page 2, line 3.

Following: "eliminating"

Insert: "unnecessary"

And as amended, be concurred in.

GUNDERSON, Chairman

Report adopted.

January 29, 1975

Mr. Speaker: We, your Committee on Judiciary, having had under consideration House Bill No. 102, respectfully report as follows: That House Bill No. 102 be amended in the introduced bill as follows:

1. Amend page 1, section 1, line 13.

Following: "each"

Insert: "first class"

2. Amend page 1, section 1, lines 13 through 15.

Following: "county"

Strike: "with a population in excess of sixty thousand (60,000), based on the latest United States bureau of census population estimate,"

Insert: "as defined in section 16-2419"

3. Amend page 1, section 1, line 17.

Following: "except"

Strike: "as to those matters in which he has a direct interest"

Insert: "that he may represent himself and his immediate family"

4. Amend page 1, section 2, line 20.

Following: "attorney in"

Strike: "those"

Insert: "first class"

5. Amend page 1, section 2, line 20.

Following: "counties"

Strike: "which have a population in excess of sixty thousand (60,000)"

6. Amend page 4, section 3, line 9.

Following: "(30,000)"

Strike: "but not more than sixty thousand (60,000)"

Insert: "which is not a first class county"

7. Amend page 4, section 3, line 12.

Following: "each"

Insert: "first class"

8. Amend page 4, section 3, line 12.

Following: "county"

Strike: "with a population in excess of sixty thousand (60,000)"

Insert: "as defined in section 16-2419"

9. Amend page 4, section 4, line 16.

Following: "in a"

Insert: "first class"

10. Amend page 4, section 4, line 16.

Following: "county"

Strike: "with a population in excess of sixty thousand (60,000)"

11. Amend page 4, section 5, line 24.

Following: "in a"

Insert: "first class"

12. Amend page 4, section 5, line 24.

Following: "county"

Strike: "with a population in excess of sixty thousand (60,000)"

13. Amend page 5, section 5, line 3.

Following: "but"

Strike: "not more than sixty thousand (60,000)"

Insert: "which is not a first class county"

And as amended, do pass.

HUENNEKENS, Chairman

Report adopted.

January 30, 1975

Mr. Speaker: We, your Committee on Judiciary, having had under consideration House Bill No. 183, respectfully report as follows: That House Bill No. 183 be amended in the introduced bill as follows:

1. Amend page 2, section 2, subsection (4), line 12.

Following: "one"

Strike: "each"

2. Amend page 2, section 2, subsection (4), line 13.

Following: "by"

Strike: ":",

Insert: "the Montana Attorney General and two to be appointed by the Governor, one of whom must be selected from a list submitted by the Montana Bar Association,"

3. Amend page 2, section 2, subsections (a), (b) and (c), lines 14 through 17.

Strike: Subsections (a), (b) and (c) in their entirety.

4. Amend page 3, section 8, subsection (1), line 21.

Following: "equipment"

Insert: "including automated data processing information, equipment and other services"

5. Amend page 3, section 8, subsection (2), lines 23 through 25.

Strike: All of subsection (2) in its entirety.

Renumber: Subsequent subsections.

Approved by Committee
on Judiciary

HOUSE BILL NO. 102

INTRODUCED BY HUENNEKENS, MCKITTRICK

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING THE POSITION OF COUNTY ATTORNEY IN CERTAIN COUNTIES A FULL-TIME POSITION; SETTING THE QUALIFICATIONS THEREFOR; AMENDING SECTION 24-605, R.C.M. 1947, BY PROVIDING A SALARY THEREFOR; PROHIBITING CERTAIN DEPUTIES FROM ENGAGING IN THE PRIVATE PRACTICE OF LAW; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Certain county attorneys prohibited from private practice of law. In each FIRST CLASS county with--a population--in--excess--of--sixty--thousand--(60,000)--based-on the--latest--United--States--bureau--of--census--population estimator AS DEFINED IN SECTION 16-2419 the county attorney is prohibited from engaging in the private practice of law, except as-to-these-matters-in-which-he-has-a-direct-interest THAT HE MAY REPRESENT HIMSELF AND HIS IMMEDIATE FAMILY.

Section 2. Qualifications. No person is eligible for the position of county attorney in these FIRST CLASS counties which-have-a-population-in-excess-of-sixty-thousand (60,000) unless he is a citizen of the United States, who has resided in the state two (2) years immediately before taking office, and has been admitted to the practice of law

for at least five (5) years prior to the date of election or appointment.

Section 3. Section 25-605, R.C.M. 1947, is amended to read as follows:

"25-605. Salaries of certain county officers. The salaries of county treasurers, clerk and recorder, clerk of the court, county attorneys, sheriffs, county superintendents of schools, and of county surveyors in counties where county surveyors now receive salaries as provided in section 16-3302, shall be based on the population and taxable valuation of the county in accordance with the following schedule:

Population of County	Salary Col. A	Taxable Valuation of County	Salary Col. B
Below 3,000...	\$3,520	Below \$2,000,000.....	\$3,520
3,000 to 3,999..	\$3,620	\$2,000,000 to 2,999,999	\$3,620
4,000 to 4,999..	\$3,700	3,000,000 to 3,999,999	\$3,700
5,000 to 5,999..	\$3,780	4,000,000 to 4,999,999	\$3,780
6,000 to 6,999..	\$3,880	5,000,000 to 5,999,999	\$3,880
7,000 to 7,999..	\$4,130	6,000,000 to 6,999,999	\$4,130
8,000 to 8,999..	\$4,200	7,000,000 to 7,999,999	\$4,200
9,000 to 9,999..	\$4,300	8,000,000 to 9,999,999	\$4,300
10,000 to 12,499..	\$4,370	10,000,000 to 11,999,999	\$4,370
12,500 to 14,999..	\$4,460	12,000,000 to 13,999,999	\$4,460
15,000 to 17,499..	\$4,550	14,000,000 to 15,999,999	\$4,550

1	17,500 to 19,999..\$4,630	16,000,000 to 17,999,999 \$4,630
2	20,000 to 24,999..\$4,720	18,000,000 to 19,999,999 \$4,720
3	25,000 to 29,999..\$4,800	20,000,000 to 22,499,999 \$4,800
4	30,000 to 39,999..\$4,890	22,500,000 to 24,999,999 \$4,890
5	40,000 to 49,999..\$5,010	25,000,000 to 29,999,999 \$5,010
6	50,000 to 59,999..\$5,190	30,000,000 to 34,999,999 \$5,190
7	60,000 to 69,999..\$5,370	35,000,000 to 39,999,999 \$5,370
8	70,000 to 79,999..\$5,520	40,000,000 to 44,999,999 \$5,520
9	80,000 to 89,999..\$5,690	45,000,000 to 49,999,999 \$5,690
10	90,000 to 99,999..\$5,870	50,000,000 to 54,999,999 \$5,870
11	100,000 and over..\$6,050	55,000,000 to 59,999,999 \$6,050
12		60,000,000 to 64,999,999 \$6,050
13		65,000,000 to 69,999,999 \$6,050
14		70,000,000 to 74,999,999 \$6,050
15		75,000,000 to 79,999,999 \$6,050
16		80,000,000 to 84,999,999 \$6,050
17		85,000,000 to 89,999,999 \$6,050
18		90,000,000 to 94,999,999 \$6,050
19		95,000,000 to 99,999,999 \$6,050
20		100,000,000 and over.....\$6,050

21 The total salary paid to county treasurers, clerk and
 22 recorder, clerk of the court, county attorneys, sheriffs,
 23 county superintendents of schools and county sheriffs, and
 24 county surveyors in counties where county surveyors receive
 25 salaries, as provided in section 16-3302, shall be the sum

1 of the salary shown in column A based on population when
 2 added to the salary shown in column B based on taxable
 3 valuation; provided, however, that county superintendent of
 4 schools shall receive, in addition to the salary based upon
 5 the totals of columns A and B above, the sum of four hundred
 6 dollars (\$400) per year and county sheriffs and county
 7 attorneys shall receive, in addition to the salary based
 8 upon the totals of columns A and B above, the sum of one
 9 thousand two hundred dollars (\$1,200) per year.
 10 Notwithstanding the above, in each county with a population
 11 in excess of thirty thousand (30,000) ~~but not more than~~
 12 ~~sixty-thousand-(60,000)~~ WHICH IS NOT A FIRST CLASS COUNTY,
 13 the county attorney shall receive a salary of sixteen
 14 thousand dollars (\$16,000) per year; and in each FIRST
 15 CLASS county ~~with a population in excess of sixty-thousand~~
 16 ~~(60,000)~~ AS DEFINED IN SECTION 16-2419 the salary of the
 17 county attorney shall be in the same amount as that received
 18 by a district court judge."

19 Section 4. Certain deputies prohibited from private
 20 practice. Any deputy county attorney in a FIRST CLASS
 21 county ~~with a population in excess of sixty-thousand~~
 22 ~~(60,000)~~ who is paid seventy per cent (70%) or more of the
 23 county attorney's salary is prohibited from engaging in the
 24 private practice of law, except as to those matters in which
 25 he has a direct interest.

1 Section 5. Effective date. The effective date of this
2 act is July 1, 1975, provided that any county attorney now
3 serving in a FIRST CLASS county ~~with-a-population-in-excess~~
4 ~~of-sixty-thousand-(60,000)~~ may elect to complete his present
5 term of office at the salary received by county attorneys in
6 counties with populations in excess of thirty thousand
7 (30,000) ~~out not-more-than-sixty-thousand-(60,000)~~ WHICH IS
8 NOT A FIRST CLASS COUNTY and retain the right to engage in
9 the private practice of law.

-End-

a definition of the term 'without consent'; amending Sections 94-2-101 and 94-5-501, R.C.M. 1947." Referred to Committee on Judiciary.

Senate Bill No. 124, introduced by Roberts, Cetrone: A bill for an act entitled: "An act amending Section 94-2-101 (28), R.C.M. 1947, to provide that awareness of the probable result of a person's conduct constitutes knowledge." Referred to Committee on Judiciary.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Driscoll moved that the House resolve itself into a Committee of the Whole, for the consideration of business on Second Reading, under the rules of the previous sitting.

Motion carried.

Stoltz in the Chair. Committee arose.

House resumed. Mr. Speaker in the Chair.

February 1, 1975

Mr. Speaker: We, your Committee of the Whole, having had under consideration business on Second Reading, recommend as follows:

That House Bill No. 102 do pass. (80-8)

That House Bill No. 520 do pass. (86-7)

That House Bill No. 141 do pass. (91-0)

That House Bill No. 134 do not pass. (84-6)

That House Bill No. 183 do pass. (67-20)

That House Bill No. 212 do pass. (81-6)

That House Bill No. 246 do pass. (83-0)

That House Bill No. 300 do not pass. (76-12)

That Senate Bill No. 59 be concurred in. (91-0)

That the Committee rise and report.

STOLTZ, Chairman

As a substitute motion, Yardley moved that House Bill No. 134 be segregated from the Committee of the Whole report and, as amended, the report be adopted.

Motion carried.

REPORTS OF STANDING COMMITTEES

February 1, 1975

Mr. Speaker: The Committee on Bills reports the following bills correctly printed: House Bill No. 141, House Bill No. 520.

QUILICI, Chairman

February 1, 1975

Mr. Speaker: We, your Committee on Taxation, having had under consideration House Bill No. 213, respectfully report as follows: That House Bill No. 213 do pass.

YARDLEY, Chairman

Report adopted.

February 4, 1975

Mr. Speaker: We, your Committee on State Administration, having had under consideration House Bill No. 340, respectfully report as follows: That House Bill No. 340 do not pass.

BRAND, Chairman

MOTIONS

Driscoll moved that House Bills Nos. 53 and 54 be rereferred from printing to the Committee on Appropriations.

Motion carried.

Kimble moved that the rules be temporarily suspended to permit the introduction of a joint resolution.

Motion carried with more than two-thirds voting in favor.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

House Bill No. 73 passed by the following vote:

Ayes: Aageson, C. R. Anderson, J. Anderson, Asher, Babcock, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bradley, Brand, Casey, Conroy, Dassinger, Day, Driscoll, Dussault, Ellerd, Ellis, Ellison, Fabrega, Fagg, Federico, Finley, Fishbaugh, Fleming, Gerke, Gilligan, Gould, Gunderson, Guthrie, Gwynn, Hager, Halvorson, Harper, Helmbrecht, Herlevi, Holmes, Hubing, Huennekens, Jacobsen, Johnson, Johnston, Kanduch, Kelly, Kemmis, Kendall, Kimble, Kropp, Kummerfeldt, Kvaalen, Lester, Lien, Luebeck, Lynch, McFadden, Magone, Manuel, Marks, Meloy, Menahan, Mercer, James Moore, Mular, Murphy, O'Connell, Quilici, Rasmussen, Richards, Robbins, Schye, Seifert, Shelden, Sivertsen, Sloan, Smith, South, Staigmillier, Stoltz, Teague, Thomas, Travis, Tropila, Underdal, Vincent, Williams, Wolfe, Wood, Wyrick, Yardley, Mr. Speaker. Total 92.

Noes: None.

Excused: Bertelsen, Hageman, Lockrem. Total 3.

Absent or not voting: Lory, Lund, Jack Moore, Palmer, Scully. Total 5.

House Bill No. 102 passed by the following vote:

Ayes: Aageson, C. R. Anderson, J. Anderson, Asher, Babcock, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bradley, Brand, Casey, Conroy, Dassinger, Day, Driscoll, Dussault, Ellerd, Ellis, Ellison, Fabrega, Fagg, Federico, Finley, Fishbaugh, Fleming, Gerke, Gilligan, Gould, Gunderson, Guthrie, Gwynn, Hager, Halvorson, Harper, Helmbrecht, Herlevi, Holmes, Hubing, Huennekens, Jacobsen, Johnson, Johnston, Kelly, Kemmis, Kendall, Kimble, Kropp, Kummerfeldt, Kvaalen, Lester, Lien, Luebeck, Lynch, McFadden, Magone, Manuel, Marks, Meloy, Menahan, Mercer, James Moore, Mular, Murphy, O'Connell, Palmer, Quilici, Rasmussen, Richards, Robbins, Schye, Seifert, Shelden, Sivertsen, Sloan, Smith, South, Staigmillier, Stoltz, Teague, Thomas, Travis, Tropila, Underdal, Vincent, Williams, Wolfe, Wood, Wyrick, Yardley, Mr. Speaker. Total 92.

Noes: None.

Excused: Bertelsen, Hageman, Lockrem. Total 3.

Absent or not voting: Kanduch, Lory, Lund, Jack Moore, Scully. Total 5.

House Bill No. 183 passed by the following vote:

Ayes: C. R. Anderson, J. Anderson, Asher, Babcock, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bradley, Brand, Casey, Conroy, Dassinger, Day, Driscoll, Dussault, Ellis, Ellison, Fabrega, Fagg, Federico, Finley, Fishbaugh, Fleming, Gerke, Gilligan, Guthrie, Gwynn, Halvorson, Harper, Helmbrecht, Herlevi, Holmes, Hubing, Huennekens, Johnson, Johnston, Kanduch, Kelly, Kemmis, Kendall, Kimble, Kropp, Kvaalen, Lester, Lien, Lund, Lynch, McFadden, Magone, Manuel, Marks, Meloy, Menahan, Mercer, James Moore, Mular, Murphy, O'Connell, Palmer, Quilici, Rasmussen, Richards, Robbins, Schye, Seifert, Shelden, Sivertsen, Sloan, South, Staigmillier, Stoltz, Teague, Thomas, Travis, Tropila, Vincent, Williams, Wolfe, Wood, Yardley, Mr. Speaker. Total 83.

Noes: Aageson, Ellerd, Gould, Gunderson, Hager, Jacobsen, Smith, Underdal, Wyrick. Total 9.

Excused: Bertelsen, Hageman, Lockrem. Total 3.

Absent or not voting: Kummerfeldt, Lory, Luebeck, Jack Moore, Scully. Total 5.

House Bill No. 212 passed by the following vote:

Ayes: Aageson, C. R. Anderson, J. Anderson, Asher, Babcock, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bradley, Brand, Casey, Conroy, Dassinger, Day, Driscoll, Dussault, Ellerd, Ellis, Ellison, Fabrega, Fagg, Federico, Finley, Fishbaugh, Fleming, Gerke, Gilligan, Gunderson, Guthrie, Gwynn, Hager, Halvorson, Harper, Helmbrecht, Herlevi, Holmes, Huennekens, Jacobsen, Johnson, Johnston, Kanduch, Kelly, Kemmis, Kendall, Kimble, Kropp, Kummerfeldt, Kvaalen, Lester, Lien, Luebeck, Lund, Lynch, McFadden, Magone, Manuel, Marks, Meloy, Menahan, Mercer, James Moore, Mular, Murphy, O'Connell, Palmer, Quilici, Rasmussen, Richards, Robbins, Schye, Seifert, Shelden, Sivertsen, Sloan, Smith, South, Staigmillier, Stoltz, Teague, Thomas, Travis, Tropila, Underdal, Vincent, Williams, Wolfe, Wood, Wyrick, Yardley, Mr. Speaker. Total 92.

Noes: Gould, Hubing. Total 2.

Excused: Bertelsen, Hageman, Lockrem. Total 3.

Absent or not voting: Lory, Jack Moore, Scully. Total 3.

House Bill No. 246 passed by the following vote:

Ayes: Aageson, J. Anderson, Asher, Babcock, R. Baeth, W. Baeth, Bardanouve, Barrett, Bengtson, Bradley, Brand, Casey, Conroy, Dassinger, Day, Driscoll, Dussault, Ellerd, Ellis, Ellison, Fabrega, Fagg, Federico, Finley, Fishbaugh, Fleming, Gerke, Gilligan, Gould, Gunderson, Guthrie, Gwynn, Hager, Halvorson, Harper, Helmbrecht, Herlevi, Holmes, Hubing, Huennekens, Jacobsen, Johnson, Johnston, Kanduch, Kelly, Kemmis, Kendall, Kimble, Kropp, Kummerfeldt, Kvaalen, Lester, Lien, Luebeck, Lund, Lynch, McFadden, Magone, Manuel, Marks, Meloy, Menahan, Mercer, James Moore, Mular, Murphy, O'Connell, Palmer, Quilici, Rasmussen, Richards, Robbins, Schye, Seifert, Shelden, Sivertsen, Sloan, Smith, South, Staigmillier, Stoltz, Teague, Thomas, Travis, Tropila, Underdal, Vincent, Williams, Wolfe, Wood, Wyrick, Yardley, Mr. Speaker. Total 93.

HOUSE BILL NO. 102

INTRODUCED BY HUENNEKENS, MCKITTRICK

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING THE POSITION OF COUNTY ATTORNEY IN CERTAIN COUNTIES A FULL-TIME POSITION; SETTING THE QUALIFICATIONS THEREFOR; AMENDING SECTION 24-605, R.C.M. 1947, BY PROVIDING A SALARY THEREFOR; PROHIBITING CERTAIN DEPUTIES FROM ENGAGING IN THE PRIVATE PRACTICE OF LAW; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Certain county attorneys prohibited from private practice of law. In each FIRST CLASS county with--a population--in--excess--of--sixty--thousand--(60,000)--based-on the--latest--United--States--bureau--of--census--population estimate, AS DEFINED IN SECTION 16-2419 the county attorney is prohibited from engaging in the private practice of law, except ~~as-to-these-matters-in-which-he-has-a-direct-interest~~ THAT HE MAY REPRESENT HIMSELF AND HIS IMMEDIATE FAMILY.

Section 2. Qualifications. No person is eligible for the position of county attorney in these FIRST CLASS counties ~~which-have-a-population-in-excess-of-sixty-thousand (60,000)~~ unless he is a citizen of the United States, who has resided in the state two (2) years immediately before taking office, and has been admitted to the practice of law

for at least five (5) years prior to the date of election or appointment.

Section 3. Section 25-605, R.C.M. 1947, is amended to read as follows:

"25-605. Salaries of certain county officers.. The salaries of county treasurers, clerk and recorder, clerk of the court, county attorneys, sheriffs, county superintendents of schools, and of county surveyors in counties where county surveyors now receive salaries as provided in section 16-3302, shall be based on the population and taxable valuation of the county in accordance with the following schedule:

Population of County	Salary Col. A	Taxable Valuation of County	Salary Col. B
Below 3,000....	\$3,520	Below \$2,000,000.....	\$3,520
3,000 to 3,999..	\$3,620	\$2,000,000 to 2,999,999	\$3,620
4,000 to 4,999..	\$3,700	3,000,000 to 3,999,999	\$3,700
5,000 to 5,999..	\$3,780	4,000,000 to 4,999,999	\$3,780
6,000 to 6,999..	\$3,880	5,000,000 to 5,999,999	\$3,880
7,000 to 7,999..	\$4,130	6,000,000 to 6,999,999	\$4,130
8,000 to 8,999..	\$4,200	7,000,000 to 7,999,999	\$4,200
9,000 to 9,999..	\$4,300	8,000,000 to 9,999,999	\$4,300
10,000 to 12,499..	\$4,370	10,000,000 to 11,999,999	\$4,370
12,500 to 14,999..	\$4,460	12,000,000 to 13,999,999	\$4,460
15,000 to 17,499..	\$4,550	14,000,000 to 15,999,999	\$4,550

THIRD READING

1	17,500 to 19,999..\$4,630	16,000,000 to 17,999,999 \$4,630
2	20,000 to 24,999..\$4,720	18,000,000 to 19,999,999 \$4,720
3	25,000 to 29,999..\$4,800	20,000,000 to 22,499,999 \$4,800
4	30,000 to 39,999..\$4,890	22,500,000 to 24,999,999 \$4,890
5	40,000 to 49,999..\$5,010	25,000,000 to 29,999,999 \$5,010
6	50,000 to 59,999..\$5,190	30,000,000 to 34,999,999 \$5,190
7	60,000 to 69,999..\$5,370	35,000,000 to 39,999,999 \$5,370
8	70,000 to 79,999..\$5,520	40,000,000 to 44,999,999 \$5,520
9	80,000 to 89,999..\$5,690	45,000,000 to 49,999,999 \$5,690
10	90,000 to 99,999..\$5,870	50,000,000 to 54,999,999 \$5,870
11	100,000 and over..\$6,050	55,000,000 to 59,999,999 \$6,050
12		60,000,000 to 64,999,999 \$6,050
13		65,000,000 to 69,999,999 \$6,050
14		70,000,000 to 74,999,999 \$6,050
15		75,000,000 to 79,999,999 \$6,050
16		80,000,000 to 84,999,999 \$6,050
17		85,000,000 to 89,999,999 \$6,050
18		90,000,000 to 94,999,999 \$6,050
19		95,000,000 to 99,999,999 \$6,050
20		100,000,000 and over.....\$6,050

21 The total salary paid to county treasurers, clerk and
 22 recorder, clerk of the court, county attorneys, sheriffs,
 23 county superintendents of schools and county sheriffs, and
 24 county surveyors in counties where county surveyors receive
 25 salaries, as provided in section 16-3302, shall be the sum

1 of the salary shown in column A based on population when
 2 added to the salary shown in column B based on taxable
 3 valuation; provided, however, that county superintendent of
 4 schools shall receive, in addition to the salary based upon
 5 the totals of columns A and B above, the sum of four hundred
 6 dollars (\$400) per year and county sheriffs and county
 7 attorneys shall receive, in addition to the salary based
 8 upon the totals of columns A and B above, the sum of one
 9 thousand two hundred dollars (\$1,200) per year.
 10 Notwithstanding the above, in each county with a population
 11 in excess of thirty thousand (30,000) but-not-more-than
 12 sixty-thousand-(60,000) WHICH IS NOT A FIRST CLASS COUNTY,
 13 the county attorney shall receive a salary of sixteen
 14 thousand dollars (\$16,000) per year; and in each FIRST
 15 CLASS county with-a-population-in-excess-of-sixty-thousand
 16 (60,000) AS DEFINED IN SECTION 16-2419 the salary of the
 17 county attorney shall be in the same amount as that received
 18 by a district court judge."

19 Section 4. Certain deputies prohibited from private
 20 practice. Any deputy county attorney in a FIRST CLASS
 21 county with-a-population-in-excess-of-sixty-thousand
 22 (60,000) who is paid seventy per cent (70%) or more of the
 23 county attorney's salary is prohibited from engaging in the
 24 private practice of law, except as to those matters in which
 25 he has a direct interest.

1 Section 5. Effective date. The effective date of this
2 act is July 1, 1975, provided that any county attorney now
3 serving in a FIRST CLASS county ~~with-a-population-in-excess~~
4 ~~of-sixty-thousand-(60,000)~~ may elect to complete his present
5 term of office at the salary received by county attorneys in
6 counties with populations in excess of thirty thousand
7 (30,000) but ~~not-more-than-sixty-thousand-(60,000)~~ WHICH IS
8 NOT A FIRST CLASS COUNTY and retain the right to engage in
9 the private practice of law.

-End-

215/75

HOUSE BILL NO. 102, introduced by Huennekens, McKittrick: A bill for an act entitled: "An act making the position of county attorney in certain counties a full-time position; setting the qualifications therefor; amending Section 24-605, R.C.M. 1947, by providing a salary therefor; prohibiting certain deputies from engaging in the private practice of law; and providing an effective date." Referred to Committee on Local Government.

HOUSE BILL NO. 183, introduced by James Moore, McKittrick, Driscoll, Barrett, Palmer, Lockrem, Marks, Kimble, Yardley, O'Connell, Gerke, Scully, Bradley, Jacobsen, Huennekens, Quilici, R. Baeth, Kummerfeldt, Conroy, Manuel, Casey, Teague, Lynch, Meloy, Gwynn, Sloan, Hageman, Rasmussen, Magone, Harper, Day, Mular, Kropp, Brand, Underdal, Murphy, Gilligan, Hubing, Jack Moore, Johnston, C. R. Anderson, Vincent, Finley, Stoltz, Luebeck, Halvorson, Schye, Dassinger, Lund, Fishbaugh, Fleming, Richards, Kendall, Sivertsen, Kelly, Wood, Wolfe, Shelden, Kvaalen, J. H. Anderson, Guthrie, Menahan: A bill for an act entitled: "An act creating a Montana code commission to supervise the recodification of the Revised Codes of Montana 1947, to provide for recodification on a continuing basis; repealing Sections 12-301 through 12-329, 12-331, 12-332, and 12-332.1, R.C.M. 1947." Referred to Committee on Judiciary.

HOUSE BILL NO. 212, introduced by McKittrick, Driscoll, O'Connell, James Moore, Kimble, Yardley: A bill for an act entitled: "An act to amend Section 93-1120, R.C.M. 1947, relating to involuntary retirement allowances for judges." Referred to Committee on Judiciary.

HOUSE BILL NO. 246, introduced by James Moore, Jacobsen, McFadden, Robbins, Teague, Vincent, Day: A bill for an act entitled: "An act to permit the destruction of certain juvenile records; amending Section 10-1232, R.C.M. 1947." Referred to Committee on Judiciary.

BUSINESS ON SECOND READING

Upon the motion of Senator Lynch, duly carried, the Senate resolved itself into a Committee of the Whole for the consideration of Business on Second Reading.

Senator Mathers in the Chair. Committee arose.

Senate resumed. President McOmber presiding.

The Committee of the Whole submitted the following report:

Mr. President: We, your Committee of the Whole, having had under consideration Business on Second Reading, respectfully report and recommend as follows:

That Senate Bill No. 83 do pass. Unanimously passed.

That Senate Bill No. 164 do pass. Opposed by Brown, Cetrone, Etchart, McOmber, Thiessen, Watt.

That Senate Bill No. 178 do pass. Unanimously passed.

That House Bill No. 38 be amended as follows:

1. Amend title, line 5.

Following: "entitled:"

Strike: lines 5 through 8 in their entirety

Insert: "An act providing for public inspection of all records of the Division of Workmen's Compensation bearing upon claims and awards; declaring compelling state interest in the right to inspect such records;

2/10/75

That Senate Bill No. 276 do pass. Opposed by Aber, Drake, Flynn, Goodover, McCallum, McOmber, Manley, Nelson, Story.

That Senate Bill No. 337 be amended as follows:

1. Amend title, line 8.

Following: "Sections"

Strike: "; and providing for an immediate effective date"

2. Amend page 3, section 3, line 12.

Strike: section 3 in its entirety

And as so amended, do pass. Unanimously passed.

That House Amendments to Senate Bill No. 22 be concurred in. Unanimously concurred in.

That Senate Joint Resolution No. 12 do pass. Unanimously passed.

That Senate Joint Resolution No. 24 do pass. Unanimously passed.

That House Joint Resolution No. 22 be concurred in. Unanimously concurred in.

That the Committee rise and report.

STORY, Chairman

Senator Story moved for adoption of the Committee of the Whole Report.

Senator Mathers moved that Senate Bill No. 243 be segregated from the Committee of the Whole Report. Motion carried.

Upon motion of Senator Story, duly carried, the report of the Committee of the Whole was adopted as amended.

At the request of the President, and without objection, the Senate reverted to Order of Business No. 6.

MOTIONS

Upon motion of Senator Lynch, duly carried, that Senate Bill No. 233 be taken from Second Reading and be rereferred to the Committee on Taxation.

Upon motion of Senator Towe, duly carried, that Senate Bill No. 390 be taken from the Committee on State Administration and be rereferred to the Committee on Judiciary.

Upon motion of Senator Towe, duly carried, that House Bill No. 102 be taken from the Committee on Local Government and be rereferred to the Committee on Judiciary.

Senator Murphy, excused.

THIRD READING OF BILLS

Senate Bill No. 58, having been read three several times, was passed by the following roll call vote:

Ayes: Aber, Blaylock, Boylan, Brown, Cetrone, Colberg, Conover, Devine, Drake, Dunkle, Etchart, Flynn, Foster, Galt, Goodover, Greely, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lee, Lynch, McCallum, Manley, Manning, Mathers, Mehrens, Nelson, Norman, Olson, Regan, Roberts, Romney, Rosell, Roskie, Seibel, E. Smith, R. Smith, Stephens, Story, Thiessen, Towe, Turnage, Warden, Watt, Mr. President. Total 47.

COMMITTEE ON JUDICIARY

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
5	3/5/75	3/12/75	3/13/75				3/12/75		
6	1/16/75	1/21/75	1/21/75				1/21/75		
7	1/16/75	1/21/75	1/21/75				1/21/75		
8	2/27/75	3/15/75	3/18/75					3/17/75	
10	3/7/75	3/15/75	3/24/75					3/19/75	
27	2/28/75	3/14/75	3/25/75					3/22/75	
31	1/20/75	1/28/75	2/4/75					2/1/75	
46	2/4/75	2/27/75	2/28/75						2/27/75
82	2/15/75	3/6/75	3/20/75					3/18/75	
99	1/27/75	2/1/75	2/6/75					2/5/75	
100	2/21/75	3/4/75	3/25/75					3/7/75	
102	2/10/75	2/28/75	3/5/75					3/4/75	
108	3/8/75	3/17/75	3/24/75					3/21/75	
110	2/4/75	3/7/75	3/13/75					3/11/75	
111	2/27/75	3/14/75	3/24/75					3/22/75	
118	2/1/75	3/5/75	3/6/75					3/5/75	
122	2/4/75	2/27/75	3/4/75					2/28/75	

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
February 28, 1975

The meeting was called to order by Senator Towe, Chairman, at 9:52 a.m. in Room 442 of the Capitol Building.

The following bills were heard:

HB 102
HB 218
HB 243

HB 102 -- Representative Herb Huennekens of District 68, the sponsor of the bill, stated that the purpose of the bill was to make the job of county attorney in larger counties a full time position.

Tom Honzel of the Montana County Attorneys' Association reviewed the bill, supported it and stated that it was long overdue. He presented written testimony, attached.

Robert Deschamps, Missoula County Attorney, presented materials and statistics relating to the size of the county attorney's job in his county in the areas of criminal and civil law and in areas new to the county attorney's office such as land use and union-employer litigation. Materials attached.

Tom Olson, Gallatin County Attorney, stated that the committee should amend the bill to apply to all counties with a population in excess of 30,000. (Amendment attached.) He stated that he would terminate his private practice if he could work full time as county attorney.

Cap Bryant of the Montana Sheriffs' and Peace Officers Association supported the bill and urged that it be concurred in.

There were no opponents to the bill.

HB 218 -- Jeremiah Johnson, Juvenile Probation Officer for Missoula,
& speaking for Representative William Menehan, District 90,
HB 243 sponsor of the bills, stated that the purpose of HB 243 was to include as a delinquent offense, the violation of an informal consent agreement for a youth in need of supervision. Written explanatory testimony attached.

There were no further proponents and no opponents to HB 243.

Mr. Johnson also explained HB 218, which sets a minimum salary for juvenile probation officers. In support of the bill he stated that juvenile probation officers are making strong efforts to improve their educational backgrounds, and he cited statistics to prove it.

Mr. Michael Papich, Juvenile Probation Officer from Anaconda, offered explanation and support for the bill.

ROLL CALL

Judiciary COMMITTEE

~~SECOND HALF~~ - 44th LEGISLATIVE SESSION 1975

Date 2/28/75

NAME	PRESENT	ABSENT	EXCUSED
Thomas E. Towe	X		
Joe R. Roberts	X		
V. E. Cetrone			
Margaret S. Warden	X		
Robert J. Brown			
Glen L. Drake	X		
Jean A. Turnage	X		
Michael Greely	X		

DUTIES OF COUNTY ATTORNEY

In 1972, Diana Dowling did a study for the County Attorneys Association on the office of the county attorney. As part of that study, a computer search was made for all references to the words *county attorney*. That search showed that the term *county attorney* appeared in 195 sections of the 1947 Revised Codes of Montana. The search, however, did not include the 1971 Session Laws nor did it include Title 75, the school laws.

A similar search was made in May, 1974. This search did not include the 1974 Session Laws which had not been placed on the computer at the time the search was made. The search shows that the term *county attorney* appears in at least 228 sections of the 1947 Revised Codes of Montana. The term appears in 42 sections of Title 94 and 95. Thus it appears in 186 sections not directly related to the Criminal Code.

County attorney is mentioned once in the 1972 Montana Constitution. Article XI, Section 3 provides that one of the optional forms of local government includes the election of a county attorney. Terms, qualifications, duties and compensation are to be provided for by law.

Section 16-3101, R.C.M., 1947, sets forth the general duties of the county attorney. It provides:

The county attorney is the public prosecutor, and must:

1. *Attend the district court and conduct, on behalf of the state, all prosecutions for public offenses and represent the state in all matters and proceedings to which it is a party, or in which it may be beneficially interested, at all times and in all places within the limits of his county;*
2. *Institute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of public offenses, when he has information that such offenses have been committed, and for that purpose, whenever not otherwise officially engaged, must attend upon the magistrate in cases of arrest, and attend before and give advice to the grand jury, whenever cases are presented to them for their consideration;*
3. *Draw all indictments and informations, defend all suits brought against the state or his county, prosecute all recognizances forfeited in the courts of record, and all actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or his county;*

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4. *Deliver receipts for money or property received in his official capacity, and file duplicates thereof with the county treasurer;*
5. *On the first Monday of January, April, July, and October, in each year, file with the county clerk an account, verified by his oath, of all moneys received by him in his official capacity during the preceding three months, and at the same time pay it over to the county treasurer;*
6. *Give when required, and without fee, his opinion in writing to the county, district, and township officers, on matters relating to the duties of their respective offices;*
7. *Act as counsel, without fee, for fire districts in unincorporated territories, towns or villages within his county;*
8. *Keep a register of all official business, in which must be entered a note of every action, whether criminal or civil, prosecuted officially, and of the proceedings therein;*
9. *When ordered or directed by the attorney general so to do, to promptly institute and diligently prosecute in the proper court, and in the name of the State of Montana, any criminal or civil action or special proceeding, it being hereby declared that the supervisory powers granted to the attorney general by section 82-401(5), include the power to order and direct said county attorneys in all matters pertaining to the duties of their office.*

In addition to these general duties, other duties are scattered throughout the Codes and are added to each session. Following is a list of many of those statutorily assigned duties. Under Montana law, the county attorney must:

1. *Institute actions against any air carrier reported to be in violation of a rule of the Board of Aeronautics (1-323(15)).*
2. *Represent the Department of Agriculture in actions against Sureties on warehouse bonds (3-229).*
3. *Prosecute seed dealers, processors and warehouse men who do not have proper licenses, who misbrand or mislabel agricultural seed or who violate rules of the Department of Agriculture dealing with the licensing of seedmen (3-316).*

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4. Prosecute anyone who does not comply with the provisions of the act dealing with intrastate transactions in paint (3-1515).
5. Represent the Department of Agriculture in actions against sureties on farm produce dealers bonds (3-1603).
6. Prosecute violations of the Montana Fertilizer law of 1957 (3-1727).
7. Prosecute on behalf of the Department of Agriculture violations of the Commercial Feed Act (3-2037(3)).
8. Enjoin any nuisance under the State Liquor Control Act and the Montana Beer Act (4-239; 4-346).
9. File a complaint against common carriers who do not depart at or within ten minutes after the scheduled time (8-703).
10. Act as legal advisor of all officers of a cemetery association and prepare and present any report required to be made by such officers (9-116).
11. Represent petitioner in cases of dependent and neglected children (10-508).
12. Enjoin a facility operating as a child care facility without a license (10-811).
13. Enjoin sales, transfers or offers of sale which do not comply with the Montana Subdivision and Platting Act and compel compliance therewith (11-3867).
14. Investigate frauds in corporate management (15-22-143).
15. Institute an action to recover money illegally paid by the Board of County Commissioners (16-812).
16. Bring an action against any county commissioner or county clerk and recorder approving any claim or issuing any warrant in excess of any such budget appropriation and his surety (16-906).
17. Initiate proceedings to collect any charges arising from medical services for a prisoner if the prisoner is financially able to pay (16-2818).
18. Be legal advisor to the Board of County Commissioners (16-3102).

19. *Assist election judges in determining an elector's qualifications (23-3015).*
20. *Prosecute any candidate for public office who fails to file a statement as to monies expended to promote his election or nomination (23-4730); or who violates other provisions of the Corrupt Practices Act (23-4734).*
21. *Recover fines of \$100 from any county officer failing to keep posted a "plain and legible statement" of the fees allowed the officer by law (25-212).*
22. *Enforce the Fish and Game laws (26-126).*
23. *Institute proper proceedings without delay upon receiving a report of any violation of the Montana Food, Drug and Cosmetic Act (27-707).*
24. *Institute appropriate proceedings to prevent and restrain the unlawful dispensing of drugs by medical practitioners (27-905).*
25. *Foreclose liens on forest lands for amounts due for forest protection (28-113).*
26. *Advise the county commissioners regarding county forests (28-504).*
27. *Represent the state at any hearing in the District Court petitioned for by one whose license has been suspended for refusing to take a chemical test to determine the alcoholic content of his blood (32-2142.2).*
28. *Institute condemnation proceedings when directed by the Highway Commission (32-3904); also when directed, institute condemnation proceedings for right-of-way for toll bridges and approaches (32-1919).*
29. *Institute proceedings to procure right-of-ways for county roads when directed by the Board of County Commissioners (32-4007).*
30. *Prosecute any case involving obstructions, encroachments and debris on highways (32-4407).*
31. *Prosecute anyone who violates the provisions for licensing lodging establishments (34-305).*
32. *Try contested insanity orders (38-213).*
33. *File a complaint against any business failing to pay*

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any wages or salaries due employees (41-1315).

34. Enjoin a business from further operations where the business has failed to execute and file a bond ordered by the court to secure prompt payment of wages (41-1319).
35. Restrain and prevent a doing of any act or practice prohibited by the Employment Agency Act (41-1434).
36. Upon proper petition, prosecute an action to determine whether the state inspector of mines has neglected his duties or is incompetent or is guilty of misfeasance or malfeasance in office (50-410).
37. Prosecute any case where the provisions regulating the sale and marketing of coal have been violated (50-606).
38. Prosecute any public officer who is charged with a disbursement of public money and whose account is about to be settled, audited or paid by him when there is probable cause that he has violated any of the statutory provisions relating to public officers (59-507).
39. Enforce through civil actions any liability created by the provisions relating to public officers (59-536).
40. Assist in investigations of substandard petroleum products (60-204).
41. Investigate and prosecute reported discriminatory acts in the price of petroleum products (60-405).
42. Institute a civil action to enforce a duty of a child to support indigent parents (61-126).
43. Upon request, defend in District Court the action of the Board of Barber Examiners where a license has been refused, suspended or revoked (66-403).
44. Institute injunction proceedings against the unlawful practice of cosmetology (66-817).
45. Prosecute any complaint of the unauthorized practice of dentistry (66-911).
46. Prosecute the unlawful practice of optometry (66-1315).
47. File complaints against habitual drug users (66-1516).

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48. Prosecute violations of the laws dealing with a pharmacy (66-1521).
49. Prosecute for drilling water wells without a license (66-2613).
50. Prosecute and enjoin the unauthorized practice of psychology (66-3207).
51. Collect a \$50 fine from any person conveying real estate under a name that has been changed since the real estate was acquired (67-1606).
52. Prosecute violations of the law relating to temporary floors and scaffolds (69-1405).
53. Prosecute complaints filed by the fire marshal relative to improper fire apparatus (69-1809).
54. Enjoin the further occupancy of the building where fire apparatus is not installed or maintained in accordance with the law (69-1810).
55. Prosecute violations of the Ambulance Service Act (69-3608).
56. Bring actions to abate, restrain or prosecute violations of the Public Health Laws (69-4111).
57. Be legal advisor of refuse disposal districts and boards within his county (69-6013).
58. Enjoin the operation or maintenance of unlicensed motor vehicle wrecking facilities (69-6810).
59. Upon request of the Public Service Commission, institute proceedings to enforce the laws regulating utilities (70-126).
60. Be legal advisor to the County Welfare Board (71-215).
61. Institute at the instruction of the attorney general actions against relatives of recipients of public assistance where the recipient has a right of action against the relative to which the Welfare Department is subrogated (71-240).
62. Petition for appointment of a guardian where aid to dependent children is not being properly utilized by the recipient (71-509).
63. At the direction of the attorney general, institute and

prosecute and appear and defend any action involving the Board of Railroad Commissioners (72-124).

64. Prosecute railroads for not properly maintaining bulletin boards on which schedules are posted (72-630).
65. Prosecute railroads for failing to construct any crossing after being ordered to do so (72-711).
66. Institute proceedings against trustees of a school district for the improper or illegal use of monies of the district (75-5941).
67. Institute proceedings against any trustee or district employee who violates any school transportation law or board of education transportation policy (75-7006).
68. Advise and assist the trustees of each school district of the county in its bond proceedings (75-7125).
69. Be legal advisor to the County Superintendent of Schools. Also the trustees of any school district unless the school district employs its own counsel or the county attorney has a conflict of interest involving his official duties (75-8305; also note the 1974 amendment).
70. Recover a monetary penalty from those charged with any duty relating to an enrollment of persons subject to military duty who fail to properly perform that duty (77-114).
71. Prosecute every person not belonging to the organized militia of Montana who fails or refuses to appear as a witness before a military court after having been duly subpoenaed (77-210).
72. Represent any person claiming the right to be rehired by a private employer after military service (77-604).
73. Represent any person claiming the right to be reinstated in the employ of the state or its subdivisions after military service (77-706).
74. Upon request of the attorney general, represent the state in all foreclosure proceedings, collections of delinquent rentals, actions for trespass on state lands, and in all other state land matters arising in his county (81-1015).

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75. Prosecute violations of state or federal forest laws (81-1413).
76. Prosecute for any violation of law or nonperformance of duty found by the state examiner (82-1002).
77. When required by the Department of Revenue, commence and prosecute actions for violations of the laws respecting the assessment of property and other revenue laws (84-708.1).
78. Upon request of the state treasurer, commence actions to collect coal taxes (84-1308).
79. Upon request of the county commissioners, quiet title to lands acquired by the county for taxes (84-4142).
80. Assist the Department of Revenue in enforcement of the cigarette tax and licensing laws (84-5606.28).
81. Assist the Department of Business Regulation in prosecuting actions against unfair trade practices (85-416).
82. At the request of the attorney general, prosecute violations of the Unemployment Compensation laws (87-146).
83. Take necessary steps to abate the danger of insecure dams and dikes (89-702).
84. Upon request of the Department of Natural Resources, enjoin the waste or unlawful use of water or the interference with the prior rights of another (89-897).
85. Upon request, give legal assistance to the Department of Natural Resources to carry out the purposes of the Montana Use Act (89-899).
86. Prosecute ouster proceedings against irrigation district commissioners (89-2107).
87. Provide such legal services as are necessary to carry out the purpose of the laws regulating ground water (89-2930).
88. Proceed against the public administrator and his sureties for failure to pay over money to the county treasurer (91-615).
89. Appear and act on behalf of the county treasurer in actions to collect due and unpaid inheritance taxes (91-4440).
90. Assist the public administrator to investigate the

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estates of deceased persons when the public administrator is required to do so by the Department of Revenue or the District Judge (91-4443).

91. *Represent the obligee under the Uniform Reciprocal Enforcement of Support Act (93-2601-52).*
92. *Handle all criminal cases and juvenile proceedings arising in his jurisdiction.*

The foregoing is not meant to be a complete list of all the duties of the county attorney. Other duties may be found in the Codes which have not been listed here. The list of duties has been prepared only as a guide as to what duties the county attorney is or may be required to perform by statute. A copy of the computer printout from which this list was compiled, is on file with the County Attorney Training Coordinator, 1230 Eleventh Avenue, Helena, Montana 59601.

- - -

NAME: Robert L. Deschamps III DATE: Feb. 28

ADDRESS: Missoula County Courthouse

PHONE: 543-3111

REPRESENTING WHOM? Missoula County

APPEARING ON WHICH PROPOSAL: H.B. 102

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: See attached caseload
statistics

WRITTEN COMPLAINTS FILED IN CALENDAR YEAR 1974

-Consumer Division-

SUBJECT	UNDER INVESTIGATION	NO FURTHER ACTION	LITIGATION	CASE CLOSED
Advertising	---	---	---	3
Appliances	---	---	---	7
Auto purchase	---	---	---	5
Auto Repair	---	---	---	4
Door-to-Door Sales	---	---	---	1
Food Products	---	---	---	1
Furniture	---	---	---	1
Household Repair/Service	---	---	---	2
Landlord/Tenant	---	---	---	1
Magazine, Record Clubs	---	---	---	1
Mail Order	1	---	---	1
Miscellaneous	1	---	---	9
Mobile Homes	---	---	---	4
Real Estate-Promotions	---	---	---	2
Schools, Investments	---	---	---	1

The above indicates the written complaints filed in 1974. These statistics do not reflect telephone complaints acted upon in which a resolution was obtained through personal or telephonic contact. Such complaints are estimated to have been approximately 30 to 40 in number. Nor do the statistics reflect numerous acts or practices which were treated as criminal in nature and therefore directed into the criminal justice system.

ECONOMIC CRIME STATUS REPORT

12-31-74

<u>DEFENDANT</u>	<u>OFFENSE</u>	<u>APPROX. AMT.</u>	<u>INVESTIGATION INITIATED</u>	<u>INVESTIGATION COMPLETED</u>	<u>INFO/COMP. FILED</u>	<u>STATUS</u>
ZIMMERMAN	Theft (F) Embezzlement	\$25,000.00	9/25/73	11/25/73	12/11/73	Pending
BENNETT	Theft (F) Embezzlement	20,000.00	10/7/73	11/10/73	4/15/74	Guilty Plea, 4 yrs. MSP, 5/30/7-
SIEGERT	Theft (F)	1,450.00	12/19/73	10/29/74		
HERSEAL	Welfare Fraud (F)	18,000.00	2/10/74	6/30/74		
WILLISTON	Theft (F) Embezzlement	1,000.00	3/17/74	4/4/74	12/4/74	Cot'd w/o Date
ROMANS	False Financial Statement (F)	6,000.00	4/13/74	6/20/74	6/27/74	Unknown
WOLFF	Misfeasance (M)		6/14/74			
POWERS	Fail to Register (F)		10/2/74	10/9/74	10/9/74	Guilty Plea, Dec. Prac. (M) \$500 fine
WILLIAMS	Theft (F)	15,000.00	10/3/74	10/31/74	11/19/74	Spring Term Trial
McBRIDE	Theft (F)	28,880.00	12/19/74			
BURGENER	Fail to Register (F)	25,000.00	12/29/74			

1973 - \$46,450.00

1974 - \$93,880.00

MISSOULA COUNTY LEGAL EXPENSES FOR
1974 IF BILLED ON 1970 MONTANA BAR ASSOCIATION
MINIMUM FEE SCHEDULE

CIVIL ACTIONS

<u>Type of Transaction</u>	<u>No.</u>		<u>Minimum Fee</u>	<u>Total</u>
Paternity	1	x	\$ 250.00	\$ 250.00
Extradition	6	x	150.00	900.00
Coroners Inquests	3	x	150.00	450.00
Dependent and Neglected Children actions	21	x	250.00	5250.00
Sanity Proceedings:			(fee for preliminary hearings)	
Voluntary	1	x	50.00	50.00
Standard Commitment	10	x	250.00	2500.00
Uniform Enforcement of the Support Act:				
Initiating Petitions	139	x	100.00	13900.00
Responding Petitions	187	x	200.00	37400.00
Justice of Peace Court:				
Collections (taxes)	50	x	100.00	5000.00
State District Court:				
Writ of Habeas Corpus	1	x	250.00	250.00
Collections (taxes)	25	x	200.00	5000.00
Defense	5	x	500.00	2500.00
Damages	2	x	1000.00	2000.00
Labor	2	x	1000.00	2000.00
Injunctions	9	x	250.00	2250.00
State Supreme Court:				
Appeals	3	x	600.00	1800.00
Original proceedings	3	x	400.00	1200.00
U. S. District Court:				
Defense (3 Judge Panel)	1	x	2000.00	2000.00
Formal Consumer Complaints	70	x	50.00	3500.00
Title Opinions on Plats	11	x	35.00	385.00
Formal Opinions	101	x	90.00	9090.00
			(rate of \$30 per hour x average 3 hrs. per opinion)	
<u>CRIMINAL ACTIONS</u>				
Felonies, no trial	273	x	200.00	54600.00
Felonies, trial	10	x	1000.00	9000.00
Misdemeanors, no trial	414	x	50.00	20700.00
Misdemeanors, trial	103	x	250.00	25750.00

TOTAL - - - - - \$208,725.00

Total County Attorney budget last fiscal year was \$105,988.83
(includes \$8,000.00 state funds; county budget was \$97,988.83)

COMMENT: The above figures are based on the published 1970 Montana minimum fee schedule. Of course, many attorneys even then collected higher fees, and with inflation, few attorneys still charge at 1970 rates.

The above figures also only represent items on which records are kept. Thus no attempt has been made to tabulate office consultation, general office services, research, drafting of legal documents, correspondence, board hearings, etc., for both county officers and the general public. These items are to be billed at an hourly rate of \$30.00 per hour, with a minimum charge of \$15.00. Telephone calls are billed at \$5.00 per call and although we have no regular telephone long, during the week of July 15, 1974, we did log incoming calls and tabulated a total 411 incoming calls for that week. If all these figures were included, the above figure would probably be over \$500,000.00.

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(vi) Similarity of Public/Private client needs.

2. Importance of Public Law expertise evidenced by this Program on "Local Government--New Structures, New Problems, New Solutions".

II. Particular Problems in 1960's and 1970's Emphasizing Need for Public Experts.

1. Education, public and private, elementary-secondary and higher education.
2. Housing--general and specialized.
3. Transportation--Regional and Urban Mass Transit, Airports, Highways.
4. Basic Services--revenue problems
5. Environmental--generally.
6. Pollution--water, air, solid waste.
7. Urban and Neighborhood Environments--Renewal/Planning.
8. Health Care/Services and Facilities--Major Industry.
9. Land use--traditional/environmental.
10. Limitations on Financing Capabilities--debt limits--voter rejection--repayment sources.
11. Industrial Development.
12. Public Employee Bargaining.
13. Civil rights--Federal/State.
14. General and Specialized legal problems.

III. Tools/Techniques for Solving Problems.

1. Varies from State to State.
 - a. State Legislative Response.
 - b. Constitutional Authority--Amendments.
 - (1) Home Rule Experience.
 - c. Political Leadership--Local Governments.
 - d. Cooperative Agreements--Local Governments and State and Local Governments.

COMPLAINTS FILED IN 1972

Abuse of Teacher	1	Health dept. violation	6
Abuse by Telephone	7	Highway (general)	98
Abandonment	1	Highway (DWI)	24
Arson 3rd	4	Intox. pub. place	2
Allow child to be truant	3	Incest	1
Assault 1st	4	Illegal sale fireworks	1
Assault 2nd	19	Indecent exposure	1
Assault 3rd	45	Kidnap	1
Att. Murder	1	Larceny of water	1
Burglary 1st	25	Lewd/Lasc. Act	3
Burglary 2nd	2	Littering	6
Contributing	14	Mal. Dest. Prop.	12
Carry Concealed Weapon	7	Mal. Injur. free.	1
Conspiracy	1	Murder	1
Contempt	1	Narcotics-possession	47
Crime Against Nature	1	Narcotics-sale	33
Cruelty to Animals	1	Obt. Mon/Prop.flse.	19
Disturb the peace	19	Obt.Goods Flse. Cr. Device.	2
Defrauding Innk.	3	Obt. Serv. Fls.	5
Desertion	1	Petit Larceny	17
Entice away child	1	Poss. Burgl. Instruments	1
Fail file death cert.	1	Pract. cosmet. w/o lic.	1
Fail pay wages	7	Rape	5
Fail to appear	2	Remov. mort. prop.	1
Flse.stat. rep. prop.	1	Receive stolen prop.	9
Flse.state public asst.	1	Resist arrest	6
Fail support	21	Robbery	8
Fail trans. cert. title	3	Sell cig. w/o tax insig.	3
Fish & Game	3	Trespass	4
Forcible entry	1	Tak/Use Auto w/o cons.	16
Forgery	17	Utter & Deliver Fraud. Ck.	56
Fugitive from justice	20	Unemp. Comp. Fraud	35
Fraud. obt. drugs	1	Unlawful import beer	1
Gambling	3		
Give beer to minors	2	<u>Wm. Spgs Commitment</u>	
Grand Larceny	57	Voluntary alcoholic	12
		Voluntary sanity	5
		Emergency	6

Missouri County
CRIMINAL COMPLAINTS FILED - 1973

TOTAL COMPLAINTS - 739 FELONIES - 354 MISDEMEANORS - 385

TOTAL WARM SPRINGS COMMITMENTS - 20 Voluntary - 8
Standard - 11
Emergency - 1

CIVIL CASES - 31

Abuse by Telephone	4	Fugitive from Justice	17
Allow Child to be Truant	6	Gambling	3
Allow Equine to Run-Large	1	Garbage	1
Allow Goats to Run-Large	1	Grand Larceny	32
Assault 1st Degree	6	Grand Larceny Bailee	14
Assault 2nd Degree	40	Health Dept. Violation	3
Assault 3rd Degree	47	Highway (General)	44
Att.Obt.Drugs Fraudulently	1	Highway (DWI)	27
Break water pipes	1	Intox. Public Place	1
Bribery	1	Indecent Exposure	5
Burglary in 1st Degree	23	Kidnapping	1
Burglary in 2nd Degree	7	Lewd/Lasc.Act	2
Burn Without Permit	4	Littering	1
Contributing	10	Maint. Public Nuisance	2
Carry Concealed Weapon	5	Malicious Destruct Property	10
Conspiracy	1	Malicious Injury Freehold	4
Contempt	11	Malicious Killing Livestock	1
Cruelty to Animals	5	Murder 2nd	1
Disturb the Peace	21	Narcotics-Possession	54
Defraud INNk.	8	Narcotics-Sale	25
Dissuade Witness	1	Obscenity	3
Doing Business w/o Lic.	2	Obstruct Officer	2
Embezzlement	1	Obtain Mon/Prop.Flse.	20
Entice Away Child	2	Obtain Goods Flse.Cr.Device	2
Failure to pay Wages	21	Operate tourist camp w/o license	1
Failure to Appear	1	Petit Larceny	11
Flse.Statement to Obt. Public Asst.	5	Perjury	1
		Rape	5
Failure to Support	10	Remov.Mort.Property	1
Fish & Game	5	Receive Stolen Property	3
Forest Serv. Violation	3	Resist Arrest	2
Forgery	21	Robbery	2

Sell Beer - Minors	1
Sell Liq.w/o license	1
Tak/Use Auto w/o Consent	15
Utt.&Del. Fraud. Ck.	121 ✓
Uncomp. Comp. Fraud	19
Written Threat	1

CRIMINAL COMPLAINTS 1974

TOTAL COMPLAINTS FILED 790 FELONIES 273 MISDEMEANORS 517

TOTAL WARM SPGS. COMMITMENTS 11

CIVIL CASES 74 (approximately 50 of this number were pers.prop.tax cases-10 filed Dist.Ct., 40 filed Just. Court)

Agg.Assault	22	Liquor Viol.	1
Alter Cert.Title	1	Non-support	26
Alter Sewer/Sept.w/o permit	1	Obt.Mon/Prop.Flse	2
Assault (Misdemeanor)	66	Obt.Gds.Flse Cr. Dev.	1
Assault 3rd	4	Obstruct Officer	4
Arson	1	Perjury	2
Bail Jumping	5	Plumbing Viol.	1
Beer Act violation	1	Priv. Communications	6
Burglary	21	Public Intox.	3
Burglary 1st Degree	1	Pub.Nuisance	2
Create a hazard	1	Rape	1
Criminal Contempt	3	Receive Stolen Prop.	1
Criminal Mischief	18	Resist Arrest	5
Cruelty to Animals	1	Refuse report injury	2
Custodial Interference	5	Robbery	3
Contributing	7	Sexual Interc.w/o consent	5
Deceptive Practices	9	Solicitation	2
Defraud Creditors	3	Theft 71 Fel.	118
Disorderly Conduct	12	47 Misd.	
Drugs 51 Fel	87	Trespass	9
36 Misd.		Unauthor.Use Vehicle	8
Dump Garbage	1	Unlawful Trans.w/child.	3
Embezzlement	1	Unsworn flse. st.to author.	1
Escape	2	Weapons violations	7
Fail to pay wages	14	Work as Elect.w/o license	1
Flse st.reg.fin.condition	1	Junk Veh. viol.	1
Flse.st.to obt.pub.asst.	1		
Fail oper.mtrboat careful.	1		
Forest Serv. Viol.	5		
Fraud. Obt. Drugs	1		
Fish & Game	3		
Forgery	14		
Fug.from Justice	10		
Gambling	1		
Health Dept. Viol.	1		
Highway	80		
Highway (DWI)	44		
Issue Bad Checks	85		
Utt. & Del.)	29		
Intimidation	4		
Indecent Exposure	2		
Kidnapping	1		
Larceny Gr,Larc.	2		
Larceny, Gr. Larc Bailee	2		
Larceny Petit	1		

			790
		cases handled	
		RLD	61
		HVD	54
		RRA	112
		EMc	204
		DEL	63
		MILO	16
		JEM/CWS	115
		STUDENTS	130
		Total	790

NONSUPPORT DIVISION

I Statistics - 1974

A. Criminal Nonsupport Cases.

1. Justice of the Peace Court

a. Cases pending January 1, 1974	3
b. Cases filed in 1974	<u>23</u>
TOTAL	26

2. Dispositions

a. Bound over to District Court	1
b. Dismissed	12
c. Committed to Jail	3
d. Sentence Suspended.	1
e. Sentence Deferred	1
f. Fined *	3
g. Pending December 31, 1974	<u>7</u>
TOTAL.	28

* Two of these were fined and given some sort of sentence also.

B. Uniform Reciprocal Enforcement of Support Act Cases (District Court).

1. Initiating

a. Initiating Petitions filed in 1974.	57
1. Support Orders Received	23
2. Petitions Dismissed in 1974	20
b. Total Initiating Petitions open December 31, 1974 . . .	139

2. Responding

a. Responding Petitions filed in 1974.	78
1. Support Orders Initiated.	59
2. Petitions Dismissed in 1974	22
b. Total Responding Petitions open December 31, 1974 . . .	187

3. Extradition Proceedings

a. Pending January 1, 1974	0
b. Filed in 1974.	0

4. Paternity Cases

a. Pending January 1, 1974	0
b. Filed in 1974.	1
c. Pending December 31, 1974.	1

DRUG CASES IN
MISSOULA COUNTY SINCE 1969

YEAR	POSSESSION	SALE	FRAUD OBTAINING DRUGS	TOTAL
1969	41	8	0	49
1970	13	5	1	19
1971	50	18	4	72
1972	47	33	1	90
1973	54	25	1	80
1974	36	27	1	64

COMMENT: The rise in drug prosecutions in the large counties in the last few years has created a whole new criminal burden on prosecutors which county attorneys in the past have never been faced with. Just an increase in drug prosecutions and the intense legal, social, and psychiatric problems with them has made the difference between a part and full time work load for county attorneys

FELONY COMPLAINTS FILED
IN MISSOULA COUNTY SINCE 1961

1961 - 75	1968 - 204
1962 - total not available	1969 - 214
1963 - 128	1970 - 272
1964 - 228	1971 - 323
1965 - 246	1972 - 315
1966 - 241	1973 - 354
1967 - 289	1974 - 273

COMMENT: The volume of felonies in Missoula has tripled since 1961, and accordingly, so has the prosecutor's burden. The increase in misdemeanors has not been as great although the average has risen from about 250 to over 400 per year.

The misdemeanor rate increased dramatically in 1974, however, at the same time, the felony rate decreased. It is believed that this was a result of the new criminal codes' higher jurisdictional amount on grand theft and bad checks, (\$50 to \$150) and the stricter standards for felony assaults (from grievous bodily injury to injury causing permanent bodily malfunctions or serious risk of death). Thus, misdemeanor rates are as follows:

MISDEMEANORS SINCE 1972

1972 - 398
1973 - 385
1974 - 517

TOTAL CRIMINAL CASES SINCE 1972

1972 - 713
1973 - 739
1974 - 790

MONTANA COUNTY ATTORNEY CRIMINAL STATISTICS

July 1, 1972 -- June 30, 1973

Source: 1973 County Attorney Reports to Attorney General'

<u>RANK</u>	<u>NAME</u>	<u>DRUG CASES</u>	<u>OTHER FELONIES</u>	<u>TOTAL</u>
1	Cascade	97	408	505
2	Yellowstone	101	259	360
3	Missoula	76	222	298
4	Flathead	35	110	145
5	Lewis and Clark	38	87	125
6*	Silver Bow	3	77	80
6*	Lincoln	13	67	80
7	Gallatin	31	45	76
8	Ravalli	14	42	56
9	Valley	5	46	51
(All other counties less than 50 cases, total.)				
*Tied for 6th.				
State Totals:		565	1,796	2,361
Totals for Cascade, Missoula, Yellowstone		274	889	1,163
Cascade, Missoula, Yellowstone percentage of state totals =		48.4%	49.5%	49.2%

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
March 4, 1975

The meeting was opened by Senator Towe, Chairman, at 3:10 P.M. in Room 442 of the Capitol Building. All committee members were present.

The following bills were discussed:

HB 102
HB 218
HB 243
HB 202
SB 100

HB 102 -- Senator Turnage moved to amend HB 102 on page 1, line 17 and page 4, line 24. WITH SENATOR GREELY ABSTAINING, THE MOTION CARRIED ON A ROLL CALL VOTE.

Senator Roberts moved to amend HB 102 on page 4, line 17. WITH SENATOR TOWE VOTING NO AND SENATOR GREELY ABSTAINING, THE MOTION CARRIED ON A ROLL CALL VOTE.

Senator Drake moved the remaining amendments to HB 102 (attached). WITH SENATOR GREELY ABSTAINING, THE MOTION CARRIED ON A ROLL CALL VOTE.

Senator Turnage moved that HB 102 be concurred in as amended. WITH SENATOR GREELY ABSTAINING, THE MOTION CARRIED ON A ROLL CALL VOTE.

HB 218 -- Senator Drake moved to amend HB 218 by adding a new section 2. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

Senator Turnage moved that HB 218 be amended on page 3, line 15. WITH SENATORS CETRONE AND GREELY VOTING NO, THE MOTION CARRIED ON A ROLL CALL VOTE.

Senator Warden moved that HB 218 be concurred in as amended. THE MOTION CARRIED UNANIMOUSLY ON A ROLL CALL VOTE.

HB 243 -- Senator Turnage moved that HB 243 be not concurred in. The motion was withdrawn.

Senator Turnage moved to amend HB 243 in the title of the bill and to strike the new language in the bill. WITH SENATOR ROBERTS ABSENT AND SENATOR GREELY VOTING NO, THE MOTION CARRIED ON A ROLL CALL VOTE.

Senator Turnage moved that HB 243 be concurred in as amended. WITH SENATOR ROBERTS ABSENT, THE MOTION CARRIED ON A ROLL CALL VOTE.

ROLL CALL

Judiciary COMMITTEE

~~SECOND HALF~~ - 44th LEGISLATIVE SESSION 1975

Date 3/4/75

NAME	PRESENT	ABSENT	EXCUSED
Thomas E. Towe	X		
Joe R. Roberts	X		
V. E. Cetrone	X		
Margaret S. Warden	X		
Robert J. Brown	X		
Glen L. Drake	X		
Jean A. Turnage	X		
Michael Greely	X		

SENATE COMMITTEE JUDICIARY

Date 3/4/75 HOUSE Bill No. 162 Time

NAME	YES	NO
THOMAS E. TOWE	X	
JOE R. ROBERTS	X	
V.E. CETRONE	X	
MARGARET S. WARDEN	X	
ROBERT J. BROWN	X	
GLEN L. DRAKE	X	
JEAN A. TURNAGE	X	
MICHAEL GREELY	Abstain	

Bill Ryan
Secretary

Thomas E. Towe
Chairman

Motion: by Senator Turnage to amend page 1,
line 17, page 4, line 24 (see attached
committee report)

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE JUDICIARY

Date 3/4/75 HOUSE Bill No. 102 Time

NAME	YES	NO
THOMAS E. TOWE		x
JOE R. ROBERTS	x	
V.E. CETRONE	x	
MARGARET S. WARDEN	x	
ROBERT J. BROWN	x	
GLEN L. DRAKE	x	
JEAN A. TURNAGE	x	
MICHAEL GREELY	absent	

Jill Rokysane
Secretary

Thomas E. Towe (H)
Chairman

Motion: by Senator Roberts to amend page
4, line 14 (see attached committee
report)

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE JUDICIARY

Date 3/4/75 HOUSE Bill No. 102 Time

NAME	YES	NO
THOMAS E. TOWE	x	
JOE R. ROBERTS	x	
V.E. CETRONE	x	
MARGARET S. WARDEN	x	
ROBERT J. BROWN	x	
GLEN L. DRAKE	x	
JEAN A. TURNAGE	x	
MICHAEL GREELY	absent	

Bill Robinson
Secretary

Thomas E. Towe
Chairman

Motion: by Senator Drake to accept the
remaining amendments (see attached
committee report)

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE JUDICIARY

Date 3/4/75 HOUSE Bill No. 102 Time

NAME	YES	NO
THOMAS E. TOWE	X	
JOE R. ROBERTS	X	
V.E. CETRONE	X	
MARGARET S. WARDEN	X	
ROBERT J. BROWN	X	
GLEN L. DRAKE	X	
JEAN A. TURNAGE	X	
MICHAEL GREELY	abstain	

Bill Abhyana
Secretary

Thomas E. Towe
Chairman

Motion: by Senator Turnage that HB 102 be concurred
in as amended.

(include enough information on motion—put with yellow copy of committee report.)

March 6, 1975

corrected
3/11/75

SENATE COMMITTEE ON JUDICIARY
AMENDMENTS TO HOUSE BILL NO, 102

That House Bill No. 102, third reading, be amended as follows:

1. Amend page 1, section 1, line 13.
Following: "each"
Strike: "FIRST CLASS"
2. Amend page 1, section 1, line 13.
Following: "county"
Insert: "with a population in excess of thirty thousand (30,000)"
3. Amend page 1, section 1, line 16.
Following: "estimate,"
Strike: "AS DEFINED IN SECTION 16-2419"
4. Amend page 1, section 1, line 17.
Following: "law"
Insert: "or sharing directly or indirectly in the profits of any private practice of law"
5. Amend page 1, section 2, line 21.
Following: "these"
Strike: "FIRST CLASS"
6. Amend page 1, section 2, line 22.
Following: "counties"
Insert: "which have a population in excess of thirty thousand (30,000)"
7. Amend page 4, section 3, lines 12 through 15 and line 16.
Following: "~~\$60,000~~"
Strike: "WHICH IS NOT A FIRST CLASS COUNTY, the county attorney shall receive a salary of sixteen thousand dollars (\$16,000) per year; and in each FIRST CLASS county AS DEFINED IN SECTION 16-2419"
8. Amend page 4, section 3, lines 17 through 18.
Following: "be"
Strike: "in the same amount as that received by a district court judge"
Insert: "twenty-five thousand dollars (\$25,000) per year"
9. Amend page 4, section 4, line 20.
Following: "a"
Strike: "FIRST CLASS"

10. Amend page 4, section 4, line 21.
Following: "county"
Insert: "with a population in excess of thirty thousand (30,000)"
11. Amend page 4, section 4, line 24.
Following: "law"
Insert: "or sharing directly or indirectly in the profits of any
private practice of law"
12. Amend page 5, section 5, line 3.
Following: "in a"
Strike: "FIRST CLASS"
13. Amend page 5, section 5, line 3.
Following: "county"
Insert: "with a population in excess of thirty thousand (30,000)"
14. Amend page 5, section 5, lines 5 through 7 and line 8.
Following: "salary"
Strike: "received by county attorneys in counties with populations
in excess of thirty thousand (30,000) WHICH IS NOT A FIRST
CLASS COUNTY"
Insert: "as presently set by law"

3/4/75

NORMAN, Chairman

Report adopted.

Mr. President: We, your Committee on Public Health, Welfare and Safety, having had under consideration House Bill No. 360, respectfully report as follows: That House Bill No. 360 be concurred in.

NORMAN, Chairman

Report adopted.

Mr. President: We, your Committee on Judiciary, having had under consideration House Bill No. 102, respectfully report as follows: That House Bill No. 102, third reading, be amended as follows:

1. Amend page 1, section 1, line 13.
Following: "each"
Strike: "first class"
2. Amend page 1, section 1, line 13.
Following: "county"
Insert: "with a population in excess of thirty thousand (30,000)"
3. Amend page 1, section 1, line 16.
Following: "[estimate,]"
Strike: "as defined in section 16-2419"
4. Amend page 1, section 1, line 17.
Following: "law"
Insert: "or sharing directly or indirectly in the profits of any private practice of law"
5. Amend page 1, section 2, line 21.
Following: "[those]"
Strike: "first class"
6. Amend page 1, section 2, line 22.
Following: "counties"
Insert: "which have a population in excess of thirty thousand (30,000)"
7. Amend page 4, section 3, lines 12 through 15 and line 16.
Following: "[(\$60,000)]"
Strike: "which is not a first class county, the county attorney shall receive a salary of sixteen thousand dollars (\$16,000) per year; and in each first class county as defined in section 16-2419"
8. Amend page 4, section 3, lines 17 through 18.
Following: "be"
Strike: "in the same amount as that received by a district court judge"
Insert: "twenty-five thousand dollars (\$25,000) per year"
9. Amend page 4, section 4, line 20.
Following: "a"
Strike: "first class"
10. Amend page 4, section 4, line 21.
Following: "county"
Insert: "with a population in excess of thirty thousand (30,000)"
11. Amend page 4, section 4, line 24.
Following: "law"
Insert: "or sharing directly or indirectly in the profits of any private practice of law"

That House Bill No. 28 be concurred in. Unanimously concurred in.
 That House Bill No. 93 be concurred in. Unanimously concurred in.
 That House Bill No. 102 be concurred in. Unanimously concurred in.
 That House Bill No. 106 be concurred in. Unanimously concurred in.
 That House Bill No. 118 be concurred in. Unanimously concurred in.
 That House Bill No. 202 be concurred in. Unanimously concurred in.
 That House Bill No. 208 be concurred in. Unanimously concurred in.
 That House Bill No. 213 be concurred in. Unanimously concurred in.
 That House Bill No. 226 be concurred in. Unanimously concurred in.
 That House Bill No. 241 be concurred in. Unanimously concurred in.
 That House Bill No. 243 be concurred in. Unanimously concurred in.
 That House Bill No. 292 be concurred in. Unanimously concurred in.
 Senator Towe present.
 That House Bill No. 357 be concurred in. Unanimously concurred in.
 That House Bill No. 360 be concurred in. Unanimously concurred in.
 That the Committee rise and report.

HAZELBAKER, Chairman

Senator Hazelbaker moved for adoption of the Committee of the Whole Report.

Senator Greely moved that House Bill No. 93 be segregated from the Committee of the Whole Report. Motion unanimously carried.

Upon motion of Senator Hazelbaker, duly carried, the report of the Committee of the Whole was adopted as amended.

At the request of the President, and without objection, the Senate reverted to Order of Business No. 2.

REPORTS OF STANDING COMMITTEES

The following committees submitted the following reports:

Mr. President: We, your Committee on Local Government, having had under consideration House Bill No. 140, respectfully report as follows: That House Bill No. 140, third reading, be amended as follows:

1. Amend page 1, section 1, line 13.
 Strike: "five dollars (\$5.00)"
 Insert: "two dollars (\$2.00)"
2. Amend page 1, section 1, line 16.
 Strike: "five dollars (\$5.00)"
 Insert: "two dollars (\$2.00)"
3. Amend page 1, section 1, lines 18 and 19.
 Following: "[one dollar (\$1.00)]"
 Strike: "five dollars (\$5.00)"
 Insert: "two dollars (\$2.00)"
4. Amend page 1, section 1, line 21.

Following: "[one dollar (\$1.00)]"
 Strike: "five dollars (\$5.00)"
 Insert: "two dollars (\$2.00)"

5. Amend page 1, section 1, lines 22 and 23.
 Following: "[twenty-five cents (25¢)]"
 Strike: "two dollars (\$2.00)"
 Insert: "one dollar (\$1.00)"

6. Amend page 1, section 1, line 25.
 Following: "[dollars (\$2.00)]"
 Strike: "ten dollars (\$10.00)"
 Insert: "four dollars (\$4.00)"

7. Amend page 2, section 1, line 3.
 Strike: "fifteen (\$15.00)"
 Insert: "five dollars (\$5.00)"

8. Amend page 2, section 1, line 5.
 Following: "[one dollar (\$1.00)]"
 Strike: "five dollars (\$5.00)"
 Insert: "two dollars (\$2.00)"

9. Amend page 2, section 1, line 7.
 Following: "[(\$1.00)]"
 Strike: "five dollars (\$5.00)"
 Insert: "two dollars (\$2.00)"

10. Amend page 2, section 1, line 13.
 Following: "[one dollar (\$1.00)]"
 Strike: "five dollars (\$5.00)"
 Insert: "two dollars (\$2.00)"

11. Amend page 2, section 1, line 18.
 Following: "[five dollars (\$5.00)]"
 Strike: "twenty-five dollars"
 Insert: "ten dollars (\$10.00)"

(Material in brackets denotes cancelled type.)

And as so amended, be concurred in.

ROMNEY, Chairman

Report adopted.

MOTIONS

Senator Cetrone moved that the Senate reconsider its action taken on the adoption of an Adverse Committee Report on House Bill No. 268 this Legislative Day.

Motion carried by the following roll call vote:

Ayes: Blaylock, Boylan, Cetrone, Colberg, Conover, Devine, Drake, Dunkle, Foster, Goodover, Greely, Jergeson, Lee, Manning, Mehrens, Murphy, Norman, Regan, Roberts, Rosell, Seibel, Towe, Warden. Total 23.

Noes: Aber, Brown, Etchart, Flynn, Galt, Hazelbaker, Healy, Himsl, Kolstad, Lynch, McCallum, Manley, Nelson, Olson, Romney, Roskie, E. Smith, R. Smith, Story, Turnage, Watt, Mr. President. Total 22.

Absent and not voting: Fasbender. Total 1.

Excused: Graham, Mathers, Stephens, Thiessen. Total 4.

3/8/75

84-1309, 84-1309.1, 84-1310, and 84-1311, R.C.M. 1947." Referred to Committee on Taxation.

HOUSE BILL NO. 374, introduced by Halvorson, Meloy, Huennekens, Vincent, Harper: A bill for an act entitled: "An act imposing an additional tax on the capital gain realized in the speculative sale of land; prescribing penalties for the evasion of such tax; and providing an effective date." Referred to Committee on Taxation.

HOUSE BILL NO. 506, introduced by Jack Moore, Fabrega, Brand, W. Baeth, Lester: A bill for an act entitled: "An act to exempt from adjusted gross income formal private retirement benefits not in excess of a certain amount; amending Section 84-4905, R.C.M. 1947; and providing an effective date." Referred to Committee on Taxation.

At the request of the President, and without objection, the Senate passed to Order of Business No. 9.

THIRD READING OF BILLS

House Bill No. 28, having been read three several times, was concurred in by the following roll call vote:

Ayes: Aber, Blaylock, Boylan, Brown, Cetrone, Colberg, Conover, Drake, Dunkle, Etchart, Fasbender, Flynn, Foster, Galt, Goodover, Graham, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lee, Lynch, McCallum, Manley, Manning, Mathers, Mehrens, Murphy, Nelson, Norman, Olson, Regan, Roberts, Romney, Rosell, Roskie, Seibel, E. Smith, R. Smith, Stephens, Story, Thiessen, Towe, Turnage, Warden, Watt, Mr. President. Total 48.

Noes: None.

Absent and not voting: None.

Excused: Devine, Greely. Total 2.

House Bill No. 102, having been read three several times, was concurred in by the following roll call vote:

Ayes: Aber, Blaylock, Boylan, Brown, Cetrone, Colberg, Conover, Drake, Dunkle, Etchart, Fasbender, Flynn, Foster, Galt, Goodover, Graham, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lee, Lynch, McCallum, Manley, Manning, Mathers, Mehrens, Murphy, Nelson, Norman, Olson, Regan, Roberts, Romney, Rosell, Roskie, Seibel, E. Smith, R. Smith, Stephens, Story, Thiessen, Towe, Turnage, Warden, Watt, Mr. President. Total 48.

Noes: None.

Absent and not voting: None.

Excused: Devine, Greely. Total 2.

House Bill No. 106, having been read three several times, was concurred in by the following roll call vote:

Ayes: Aber, Blaylock, Boylan, Brown, Cetrone, Colberg, Conover, Drake, Dunkle, Etchart, Fasbender, Flynn, Foster, Galt, Goodover, Graham, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lee, Lynch, McCallum, Manley, Manning, Mathers, Mehrens, Murphy, Nelson, Norman, Olson, Regan, Roberts, Romney, Rosell, Roskie, Seibel, E. Smith, R. Smith, Stephens, Story, Thiessen, Towe, Turnage, Warden, Watt, Mr. President. Total 48.

March 10, 1975

Mr. Speaker: We, your Committee on Judiciary, having had under consideration Senate Bill No. 218, respectfully report as follows: That Senate Bill No. 218 be not concurred in.

HUENNEKENS, Chairman

March 11, 1975

Mr. Speaker: We, your Committee on Highways and Transportation, having had under consideration Senate Bill No. 380, respectfully report as follows: That Senate Bill No. 380 be not concurred in.

W. BAETH, Chairman

March 10, 1975

Mr. Speaker: We, your Committee on Judiciary, having had under consideration Senate Bill No. 404, respectfully report as follows: That Senate Bill No. 404 be not concurred in.

HUENNEKENS, Chairman

MESSAGES FROM THE OTHER HOUSE

March 11, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the following House Bills were this day read three several times and concurred in as amended, title and history agreed to, and the said bills are herewith returned to the House for concurrence in Senate amendments:

House Bill No. 102, introduced by Huennekens, McKittrick

House Bill No. 106, introduced by Fabrega, Jack Moore, et al

House Bill No. 118, introduced by Lester, McKittrick

House Bill No. 202, introduced by McKittrick, Kendall, et al

House Bill No. 241, introduced by Halvorson

House Bill No. 243, introduced by Menahan, Dussault

Respectfully yours,

John N. Hanson
Secretary of the Senate

March 11, 1975

Mr. Speaker:

I am directed by the Senate to inform your Honorable Body that the following House Bills were this day read three several times and concurred in, titles and history agreed to, and the said bills are herewith returned to the House:

House Bill No. 28, introduced by Gunderson

House Bill No. 208, introduced by Lester, Jim Moore, et al

House Bill No. 213, introduced by Bengtson

House Bill No. 226, introduced by Ellison, Staigmiller

3/12/75

That Senate Joint Resolution No. 24 be concurred in. (65-18)

Fagg resumes the Chair.

That Senate Joint Resolution No. 25 be concurred in. (75-3)

Meloy replaces Fagg in the Chair. Fagg resumes the Chair.

That Senate Bill No. 15 be concurred in. (60-35)

That Senate Bill No. 350 be concurred in. (57-27)

That Senate Amendments to House Bill No. 102 be concurred in. (75-1)

That Senate Amendments to House Bill No. 106 be not concurred in. (76-4)

That Senate Amendments to House Bill No. 118 be concurred in. (81-1)

That Senate Amendments to House Bill No. 202 be not concurred in. (86-1)

That Senate Amendments to House Bill No. 241 be concurred in. (90-0)

That Senate Amendments to House Bill No. 243 be not concurred in. (94-0)

That Senate Amendments to House Bill No. 418 be not concurred in. (72-20)

That the Committee rise and report.

FAGG, Chairman

Report adopted.

REPORTS OF STANDING COMMITTEES

March 12, 1975

Mr. Speaker: We, your Committee on Appropriations, having had under consideration House Bill No. 269, respectfully report as follows: That House Bill No. 269 be amended in the introduced bill as follows:

1. Amend page 1, section 1, subsection (2), lines 16 and 17.

Following: "means a"

Strike: "combination of planned efforts to provide a service"

Insert: "governmental entity designated in this act"

2. Amend page 2, section 1, subsection (3)(a), line 2.

Following: "fund"

Insert: "and other than receipts to the state from the United States government made available under the provisions of the State and Local Fiscal Assistance Act of 1972 or any special revenue sharing program enacted by congress"

3. Amend page 2, section 1, subsection (3)(c), line 7.

Following: "biennium"

Insert: "in approving a budget amendment, the approving authority shall certify:

(i) specific additional services to be provided as a result of a higher expenditure level;

(ii) that no other alternative is available to provide the additional services;

(iii) that the additional proposed services have not been considered and rejected by the legislature; and

Day, Driscoll, Dussault, Ellerd, Ellison, Fabrega, Federico, Finley, Fishbaugh, Fleming, Gerke, Gilligan, Gunderson, Guthrie, Gwynn, Hageman, Hager, Halvorson, Harper, Helmbrecht, Herlevi, Holmes, Hubing, Huennekens, Jacobsen, Johnson, Johnston, Kanduch, Kelly, Kemmis, Kendall, Kimble, Kropp, Kummerfeldt, Kvaalen, Lester, Lien, Lory, Luebeck, Lund, Lynch, McFadden, Magone, Manuel, Marks, Meloy, Menahan, Mercer, Jack Moore, James Moore, Murphy, O'Connell, Palmer, Quilici, Rasmussen, Richards, Robbins, Schye, Scully, Seifert, Shelden, Sivertsen, Sloan, Smith, South, Staigmiller, Stoltz, Teague, Thomas, Travis, Tropila, Underdal, Vincent, Williams, Wolfe, Wood, Wyrick, Mr. Speaker. Total 92.

Noes: Ellis, Gould, Lockrem, Mular. Total 4.

Excused: Fagg. Total 1.

Absent or not voting: J. Anderson, Bardanouve, Yardley. Total 3.

Senate Bill No. 385 was not concurred in by the following vote:

Ayes: R. Baeth, W. Baeth, Bardanouve, Bradley, Brand, Dassinger, Driscoll, Dussault, Federico, Finley, Gerke, Gilligan, Gunderson, Harper, Holmes, Huennekens, Johnson, Kelly, Kemmis, Kimble, Lester, Luebeck, Lynch, Magone, Meloy, Menahan, Mular, Murphy, O'Connell, Palmer, Quilici, Richards, Shelden, South, Stoltz, Teague, Travis, Vincent, Williams, Wolfe, Yardley, Mr. Speaker. Total 42.

Noes: Aageson, C.R. Anderson, J. Anderson, Asher, Babcock, Barrett, Bengtson, Bertelsen, Casey, Conroy, Day, Ellerd, Ellis, Ellison, Fabrega, Fagg, Fishbaugh, Fleming, Gould, Guthrie, Gwynn, Hageman, Hager, Halvorson, Helmbrecht, Herlevi, Hubing, Jacobsen, Johnston, Kanduch, Kendall, Kropp, Kummerfeldt, Kvaalen, Lien, Lockrem, Lory, Lund, McFadden, Manuel, Marks, Mercer, Jack Moore, James Moore, Rasmussen, Robbins, Schye, Scully, Seifert, Sivertsen, Sloan, Smith, Staigmiller, Thomas, Tropila, Underdal, Wood, Wyrick. Total 58.

Paired: Johnson, Aye; Fagg, No.

Excused: None.

Absent or not voting: None.

Senate Amendments to House Bill No. 102 were concurred in by the following vote:

Ayes: Aageson, C. R. Anderson, J. Anderson, Asher, Babcock, R. Baeth, W. Baeth, Bardanouve, Barrett, Bertelsen, Bradley, Casey, Conroy, Dassinger, Day, Driscoll, Dussault, Ellerd, Ellis, Ellison, Fabrega, Federico, Finley, Fishbaugh, Fleming, Gilligan, Gould, Gunderson, Guthrie, Gwynn, Hageman, Hager, Halvorson, Harper, Helmbrecht, Herlevi, Holmes, Hubing, Huennekens, Jacobsen, Johnson, Johnston, Kanduch, Kelly, Kemmis, Kendall, Kimble, Kropp, Kummerfeldt, Kvaalen, Lester, Lien, Lockrem, Lory, Luebeck, Lund, Lynch, McFadden, Magone, Manuel, Marks, Meloy, Menahan, Mercer, Jack Moore, James Moore, Mular, Murphy, O'Connell, Palmer, Quilici, Rasmussen, Richards, Robbins, Schye, Scully, Seifert, Shelden, Sloan, Smith, South, Staigmiller, Stoltz, Teague, Thomas, Tropila, Underdal, Vincent, Williams, Wolfe, Wood, Wyrick, Yardley, Mr. Speaker. Total 94.

Noes: Brand. Total 1.

Excused: Fagg. Total 1.

Absent or not voting: Bengtson, Gerke, Sivertsen, Travis. Total 4.

HOUSE BILL NO. 102

INTRODUCED BY HUENNEKENS, MCKITTRICK

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING THE POSITION OF COUNTY ATTORNEY IN CERTAIN COUNTIES A FULL-TIME POSITION; SETTING THE QUALIFICATIONS THEREFOR; AMENDING SECTION 24-605, R.C.M. 1947, BY PROVIDING A SALARY THEREFOR; PROHIBITING CERTAIN DEPUTIES FROM ENGAGING IN THE PRIVATE PRACTICE OF LAW; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Certain county attorneys prohibited from private practice of law. In each ~~FIRST-CLASS~~ county with--a population--in--excess--of--sixty--thousand--(60,000)--based-on the--latest--United--States--bureau--of--census--population estimate, WITH A POPULATION IN EXCESS OF THIRTY THOUSAND (30,000) ~~AS DEFINED IN SECTION 16-2419~~ the county attorney is prohibited from engaging in the private practice of law OR SHARING DIRECTLY OR INDIRECTLY IN THE PROFITS OF ANY PRIVATE PRACTICE OF LAW, except ~~as to these matters in which he has a direct interest~~ THAT HE MAY REPRESENT HIMSELF AND HIS IMMEDIATE FAMILY.

Section 2. Qualifications. No person is eligible for the position of county attorney in these ~~FIRST-CLASS~~ counties ~~which have a population in excess of sixty thousand~~

~~(60,000)~~ WHICH HAVE A POPULATION IN EXCESS OF THIRTY THOUSAND (30,000) unless he is a citizen of the United States, who has resided in the state two (2) years immediately before taking office, and has been admitted to the practice of law for at least five (5) years prior to the date of election or appointment.

Section 3. Section 25-605, R.C.M. 1947, is amended to read as follows:

"25-605. Salaries of certain county officers. The salaries of county treasurers, clerk and recorder, clerk of the court, county attorneys, sheriffs, county superintendents of schools, and of county surveyors in counties where county surveyors now receive salaries as provided in section 16-3302, shall be based on the population and taxable valuation of the county in accordance with the following schedule:

Population of County	Salary Col. A	Taxable Valuation of County	Salary Col. B
Below 3,000....	\$3,520	Below \$2,000,000.....	\$3,520
3,000 to 3,999..	\$3,620	\$2,000,000 to 2,999,999	\$3,620
4,000 to 4,999..	\$3,700	3,000,000 to 3,999,999	\$3,700
5,000 to 5,999..	\$3,780	4,000,000 to 4,999,999	\$3,780
6,000 to 6,999..	\$3,880	5,000,000 to 5,999,999	\$3,880
7,000 to 7,999..	\$4,130	6,000,000 to 6,999,999	\$4,130
8,000 to 8,999..	\$4,200	7,000,000 to 7,999,999	\$4,200

REFERENCE BILL

1	9,000 to 9,999..\$4,300	8,000,000 to 9,999,999 \$4,300
2	10,000 to 12,499..\$4,370	10,000,000 to 11,999,999 \$4,370
3	12,500 to 14,999..\$4,460	12,000,000 to 13,999,999 \$4,460
4	15,000 to 17,499..\$4,550	14,000,000 to 15,999,999 \$4,550
5	17,500 to 19,999..\$4,630	16,000,000 to 17,999,999 \$4,630
6	20,000 to 24,999..\$4,720	18,000,000 to 19,999,999 \$4,720
7	25,000 to 29,999..\$4,800	20,000,000 to 22,499,999 \$4,800
8	30,000 to 39,999..\$4,890	22,500,000 to 24,999,999 \$4,890
9	40,000 to 49,999..\$5,010	25,000,000 to 29,999,999 \$5,010
10	50,000 to 59,999..\$5,190	30,000,000 to 34,999,999 \$5,190
11	60,000 to 69,999..\$5,370	35,000,000 to 39,999,999 \$5,370
12	70,000 to 79,999..\$5,520	40,000,000 to 44,999,999 \$5,520
13	80,000 to 89,999..\$5,690	45,000,000 to 49,999,999 \$5,690
14	90,000 to 99,999..\$5,870	50,000,000 to 54,999,999 \$5,870
15	100,000 and over..\$6,050	55,000,000 to 59,999,999 \$6,050
16		60,000,000 to 64,999,999 \$6,050
17		65,000,000 to 69,999,999 \$6,050
18		70,000,000 to 74,999,999 \$6,050
19		75,000,000 to 79,999,999 \$6,050
20		80,000,000 to 84,999,999 \$6,050
21		85,000,000 to 89,999,999 \$6,050
22		90,000,000 to 94,999,999 \$6,050
23		95,000,000 to 99,999,999 \$6,050
24		100,000,000 and over.....\$6,050
25	The total salary paid to county treasurers, clerk and	

1 recorder, clerk of the court, county attorneys, sheriffs,
2 county superintendents of schools and county sheriffs, and
3 county surveyors in counties where county surveyors receive
4 salaries, as provided in section 16-3302, shall be the sum
5 of the salary shown in column A based on population when
6 added to the salary shown in column B based on taxable
7 valuation; provided, however, that county superintendent of
8 schools shall receive, in addition to the salary based upon
9 the totals of columns A and B above, the sum of four hundred
10 dollars (\$400) per year and county sheriffs and county
11 attorneys shall receive, in addition to the salary based
12 upon the totals of columns A and B above, the sum of one
13 thousand two hundred dollars (\$1,200) per year.
14 Notwithstanding the above, in each county with a population
15 in excess of thirty thousand (30,000) but-not-more-than
16 sixty-thousand-(60,000) WHICH-IS-NOT-A-FIRST--CLASS--COUNTY,
17 the--county--attorney--shall--receive--a--salary--of--sixteen
18 thousand-dollars-(\$16,000)-per--year,--and--in--each FIRST
19 CLASS county with-a-population-in-excess-of-sixty-thousand
20 (60,000) AS-DEFINED-IN-SECTION-16-2419 the salary of the
21 county attorney shall be in-the-same-amount-as-that-received
22 by--a--district--court--judge TWENTY-FIVE THOUSAND DOLLARS
23 (\$25,000) PER YEAR."

24 Section 4. Certain deputies prohibited from private
25 practice. Any deputy county attorney in a FIRST-CLASS

1 county with--a--population--in--excess--of--sixty--thousand
 2 ~~460,000~~ WITH A POPULATION IN EXCESS OF THIRTY THOUSAND
 3 (30,000) who is paid seventy percent (70%) or more of the
 4 county attorney's salary is prohibited from engaging in the
 5 private practice of law OR SHARING DIRECTLY OR INDIRECTLY IN
 6 THE PROFITS OF ANY PRIVATE PRACTICE OF LAW, except as to
 7 those matters in which he has a direct interest.

8 Section 5. Effective date. The effective date of this
 9 act is July 1, 1975, provided that any county attorney now
 10 serving in a ~~FIRST-CLASS~~ county with-a-population-in--excess
 11 of--sixty--thousand--~~460,000~~ WITH A POPULATION IN EXCESS OF
 12 THIRTY THOUSAND (30,000) may elect to complete his present
 13 term of office at the salary received-by-county-attorneys-in
 14 counties--with--populations--in--excess--of--thirty-thousand
 15 ~~430,000~~-but-not-more-than-sixty-thousand-~~460,000~~ WHICH--IS
 16 NOT--A-FIRST-CLASS-COUNTY AS PRESENTLY SET BY LAW and retain
 17 the right to engage in the private practice of law.

-End-